



DEPARTMENT OF
FINANCE

ARNOLD SCHWARZENEGGER, GOVERNOR

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January 1, 2005

Honorable Arnold Schwarzenegger, Governor
State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

**Final Report—Review of the Office of Spill Prevention and Response (OSPR),
Department of Fish and Game**

Enclosed is our final report on our review of the fiscal and program activities of the Department of Fish and Game, Office of Spill Prevention and Response (OSPR). The Department of Finance, Office of State Audits and Evaluations, performed this review in accordance with an interagency agreement. The scope of work was established in Government Code section 8670.42 and includes reviewing the financial basis and programmatic effectiveness of the State's oil spill prevention, response, and preparedness program.

This report contains fiscal and program information on the State's oil spill prevention, response, and preparedness program and primarily discusses the Office of Spill Prevention and Response since they receive a majority of the funding for this program. However, information on the State Lands Commission is also presented.

If you have any questions, please contact Mary Kelly, Manager, or Dennis Mehl, Supervisor at (916) 322-2985.

Sincerely,

Original Signed By:

Samuel E. Hull, Chief
Office of State Audit and Evaluations

cc: Mr. Carleton Moore, Director, Office of Spill Prevention and Response, Department of
Fish and Game



January 1, 2005

Honorable Wesley Chesbro, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable John Laird, Chair
Assembly Budget Committee

Honorable Dennis Hollingsworth, Vice Chair
Senate Budget and Fiscal Review Committee

Honorable Rick Keene, Vice Chair
Assembly Budget Committee

Honorable Don Perata
President pro Tempore of the Senate

Honorable Fabian Nunez
Speaker of the Assembly

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cc: Mr. Carleton Moore, Director, Office of Spill Prevention and Response, Department of
Fish and Game

SPECIAL REVIEW REPORT

Report on the Department of Fish and Game Office of Spill Prevention and Response Review of Fiscal and Program Activities

Prepared By:
Office of State Audits and Evaluations
Department of Finance

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PREFACE

The Department of Fish and Game's Spill Prevention and Response Program is administered by the Office of Spill Prevention and Response. The program's objective is to protect California's natural resources by preventing, preparing for, and responding to spills of oil and other deleterious materials, and through restoring and enhancing affected resources. OSPR conducts its activities under authority granted by the State Constitution, State Water Code, Government Code, Public Resources Code, and Health and Safety Code.

Government Code section 8670.42 requires the Department of Finance, Office of State Audits and Evaluations to review the financial basis and programmatic effectiveness of the State's oil spill prevention, response, and preparedness program. This report summarizes the review and includes an analysis of the program's major expenditures, fees and fines collected, staffing and equipment expenditures, spills responded to, and other relevant issues. This report also recommends measures to improve the efficiency and effectiveness of the State's oil spill prevention, response, and preparedness program.

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EXECUTIVE SUMMARY

Government Code section 8670.42 requires the Department of Finance (DOF) to review the financial basis and programmatic effectiveness of the State's oil spill prevention, response, and preparedness program. In accordance with this requirement, the DOF's Office of State Audits and Evaluations undertook such a review during June through December 2004. This report summarizes the review and includes an analysis of the program's major expenditures, fees and fines collected, staffing and equipment expenditures, spills responded to, and other relevant issues. This report also recommends measures to improve the efficiency and effectiveness of the State's oil spill prevention, response, and preparedness program.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) of 1990 created the Oil Spill Prevention Administration Fund (OSPAF) to provide a funding base for oil spill preparation and response capabilities. The OSPAf provides funds to three state agencies, the Department of Fish and Game (DFG), the State Lands Commission, and the Board of Equalization. Government Code sections 8574.1 et seq., and 8670.1 et seq. designated DFG as the lead agency to implement the Act.

Department of Fish and Game

In addition to designating DFG the lead agency to implement the Act, Government Code sections 8574.1 et seq., and 8670.1 et seq., also created the Office of Oil Spill Prevention and Response (OSPR) within DFG. Under the auspices of DFG's public trustee and custodial responsibilities, the overall goal of OSPR is to protect sensitive environmental areas and ecosystems including coastal waters, estuaries, bays, beaches, and fish and wildlife. These objectives are accomplished through oil spill prevention, readiness, response, and restoration of fish, wildlife, and habitat resources damaged by oil spills.

OSPR's major *prevention* activities include: ensuring that marine facilities and vessels that carry petroleum product as cargo have contingency plans in the event of an oil spill; initiating an Oil Spill Response Organization rating system; and working with the United States Coast Guard to evaluate and update statewide vessel traffic routing and transit safety measures. Prevention measures also include funding a Vessel Traffic Service System for Long Beach and Los Angeles Harbors, an Automated Information System in San Francisco Harbor and creating Harbor Safety Committees at California's five busiest ports.

OSPR's major *readiness* activities include oil spill response training; conducting and attending drills and exercises programs; establishing the Oiled Wildlife Care Network and requiring Certificate of Financial Responsibility for spills.

OSPR's activities in *response* to a spill include: coordinating response efforts; monitoring of responsible party's efforts to contain and clean-up spilled product; managing containment and clean-up in instances where no responsible party is readily identifiable or cooperative; coordinating oiled animal rescue, recovery, and release; conducting incident investigation; and

performing natural resource damage assessment. OSPR is also responsible for negotiating and settling spill volume with the responsible party and acting as the State's representative in pursuing punitive, civil, and criminal settlements.

State Lands Commission

The Act provides funding to the State Lands Commission (SLC) to prevent oil spills in the marine waters of California. The SLC has public trust responsibilities to prevent pollution and provide the best achievable protection of public health and safety and the environment for all state lands.

State Board of Equalization

The Act provides funding to the Board of Equalization (BOE) for the collection of a tax per barrel of oil imported into California over marine waters and for auditing fuel tax submitters for proper reporting and remitting of taxes.

Methodology

This report is based on our analysis of the oil spill prevention, response, and preparedness program's major expenditures, fees and fines collected, staffing and equipment expenditures, spills responded to, and other relevant issues. The report recommends measures to improve the efficiency and effectiveness of the program, including, but not limited to, measures to modify existing contingency plan requirements, to improve protection of sensitive shoreline sites, and ensure adequate and equitable funding for the State's oil spill prevention, response, and preparedness activities.

Our review included surveying literature regarding oil spills, attending relevant meetings, and conducting interviews with pertinent staff and a wide variety of external stakeholders from industry, other governmental organizations, and environmental organizations. We compiled and analyzed expenditure, revenue, and staffing data, and evaluated relevant performance data.

Findings and Recommendations

Expenditures

Distributions from the Oil Spill Prevention Administration Fund (OSPAF) totaled \$23.3 million in 2002-03. Of this, OSPR was appropriated \$16.9 million or 73 percent; SLC was appropriated \$6.2 million or 26 percent, and the BOE was appropriated \$239,000 or 1 percent.

This funding is the main source of revenues for OSPR, accounting for over 67 percent of its total funding. Total OSPAFA expenditures by OSPR increased by over 14 percent, from \$17 million to \$19.5 million, from 2000-01 to 2003-04. OSPR also receives revenue from reimbursements, the Fish and Wildlife Pollution Account, the Oil Spill Response Trust Fund, and other sources.

The Prevention, the Readiness, and the Administrative programs represent over 90 percent of all OSPR expenditures. The Readiness program expenditures have increased from 40 to 50 percent of total OSPR expenditures from 2000-01 to 2003-04, while Prevention program expenditures decreased from 24 to 10 percent of such expenditures.

Included in OSPR expenditures funded from OSPAF is distributed administration charges for DFG indirect costs. The percentage of DFG distributed administration charged to OSPR increased 16 percent from 2000-01 and 2003-04. This percentage was 21 percent in 2003-04.

Various activities of the SLC are funded through OSPAF. The Marine Facilities Inspection program received 61 percent of SLC's OSPAF expenditures, while the System Safety Unit accounted for 14 percent. The SLC also funds distributed administration charges with OSPAF; however, the rate was only 8 percent in 2003-04.

Issue

DFG has not addressed perceived inequities with its distributed administration funding that DOF reported in a 1995 OSPR Program Review. At that time, DOF found that OSPR paid a higher percentage of its revenues for distributed administration costs than any other DFG fund, and that DFG Regional Offices charge more administrative positions to the Distributed Administration cost pool than OSPR.

During our review DFG did not provide documentation or methodology for the direct cost base it uses for distributing indirect costs. Such a methodology is required by the State Administrative Manual (SAM).

Recommendation

The DFG budget office should review the distributed administration methodology to standardize charges to the indirect cost pool and the distribution of those costs. DFG should also document the direct cost base used for distributing indirect costs, as required by SAM. The DFG Internal Auditor should review the resulting methodology and ensure that it is properly and appropriately computed and documented.

Issue

OSPR has sought to have DFG act as a funding pass through agent for habitat remediation projects. However, DFG assesses the current distributed administration fee of 21 percent on all contracts. DFG has refused to reduce the amount of indirect costs charged against the contracts to a level appropriate for the actual amount of work involved. We estimate that DFG would have earned over \$3.3 million if it had acted as the pass-through agent for these funds. While DFG accounting has the ability to create special overhead exemptions, the lack of communication and cooperation between DFG and OSPR has prevented this from occurring. Unless this impasse is corrected, DFG will be unable to capitalize on this potential revenue source.

Recommendation

DFG and OSPR should establish guidelines to use when negotiating trusteeship contracts. These guidelines should enable OSPR to evaluate the actual amount of administrative labor that will be required by the contract and allow DFG to fully recover the costs of providing oversight without unduly burdening the remediation projects.

Revenues, Fees and Fines Collected

As previously noted, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) of 1990 created the Oil Spill Prevention Administration Fund (OSPAF) to provide a funding base for oil spill preparation and response capabilities. Government Code section 8670.38 created an annual assessment of \$0.05 per barrel of crude oil or petroleum products imposed upon specified persons.

Because the revenues to OSPAFA exceed the expenditures, the fund has an increasing fund balance. The fund balance was in excess of \$18 million at the end of 2002-03. If revenues and expenditures remain at the current level, the OSPAFA fund balance could amount to \$45 million by 2006-07.

Issue

If OSPAFA revenues continue to exceed expenditures, the fund could have a significant excess balance. In the absence of legislation lowering the fee, the excess fund balance would provide opportunities for OSPR to strengthen its prevention, readiness, and response activities.

Recommendation

OSPR, the SLC, the oil industry, and other stakeholders should work together to prioritize program activities funded by the OSPAFA and develop a joint strategy for the use of the projected OSPAFA surplus.

The code authorized the BOE to collect the fee and be reimbursed for its activities by OSPAFA. The BOE is budgeted two personnel years to support their collection activities. Such activities include feepayer audits. The current collection costs of BOE amount to less than one percent of OSPAFA revenues collected.

As indicated, the BOE conducts audits of the terminal and pipeline operators filing monthly returns and remitting the assessment. The BOE conducts audits of large fee payers, such as Exxon and British Petroleum, on a three-year cycle. These large fee payers account for 88 percent of the total OSPAFA revenue collected by BOE. Smaller fee payers are audited on an infrequent basis.

Issue

Erroneous returns and assessment may be submitted by smaller fee payers. Due to the lack of audit coverage for small fee payers, these errors may not be disclosed. The BOE has been denied additional funding for staff to expand audit coverage to small fee payers.

Recommendation

OSPR should request approval for a limited term contract of one year to perform test audits on selected small fee payers. These test audits will allow the BOE and OSPR to assess the cost benefit of continuing and/or expanding audit activities.

Vessels are required to submit Certificate of Financial Responsibility (COFR) documents and remit nontank vessel fees every two years. These fees, which equaled \$2,500 in 2003-04, are collected by OSPR.

Issue

To delay payment of the fee, some shipping companies do not request COFRs until they are certain that their vessels will enter California waters. Due to this, many COFR applications now require expedited processing, requiring additional staff time and administrative costs.

Recommendation

Assess an additional fee on COFR applications requiring expedited processing.

Staffing Levels

The OSPAF funds personnel in both OSPR and the SLC. The number of personnel funded through the OSPAF in these agencies remained fairly stable in the last four years despite a statewide hiring freeze in effect from October 2001 through June 2004.

OSPR's activities are conducted by staff headquartered in Sacramento and located in field offices throughout California. Total authorized positions were 194 in fiscal year 2003-04. Over 70 percent of these positions were in the Scientific and Marine Safety, Enforcement, and Response classifications.

Staff in the Scientific Branch perform activities related to: Marine Pollution Studies; Petroleum Laboratory; Bio-assessment; Natural Resource Damage Assessment; Spill Response Support; Habitat, Protection, Response, and Veterinary Services; creation and maintenance of the Oiled Wildlife Care Network; and creation and maintenance of the Marine Wildlife Veterinary Care and Research Center.

Staff in the Marine Safety Branch and Enforcement Program perform activities related to: Oil Spill Contingency Plans; vessel inspections; the Statewide Coastal Protection Review; Area Spill Response Plans; vessel traffic routing and other safety; Harbor Safety Committees in California's five largest marine ports; and Spill Response Training Drills.

Our review disclosed that in response to the State's General Fund reductions, DFG transferred OSPR positions to DFG headquarters. Furthermore, DFG allocated General Fund reductions disproportionate to the insignificant level of General Fund support received by OSPR.

SLC had 89 authorized positions funded by OSPAF in 2003-04. These positions are primarily within the Mineral Resources Management Division and the Marine Facilities Division. The mineral division manages the orderly extraction of oil and other minerals and ensures the efficient development of such resources consistent with public safety and environmental protection. The marine division inspects all marine facilities, reviews oil spill contingency plans and marine facility operations manuals.

Equipment

OSPR equipment list provided by DFG Business Services has not been updated since June 2001, and does not reconcile to CALSTARS Building and Equipment balances. As such, we were unable to analyze OSPR's equipment purchases and current inventory. During our review, we did note unexplained CALSTARS entries that exceeded \$2.9 million in both 2000-01 and 2001-02.

Issue

Observations regarding inadequate inventory of fixed assets have been included in several recent audits of DFG, including: 1999 DFG Internal Audit; 2001 DFG Internal Audit; Bureau of State Audits Internal Control and Compliance Report; and the United States Department of Fish and Wildlife Office of the Inspector General (August 2004). In their response to such findings, DFG asserts that corrective actions are being considered and implemented. Our review found no evidence that DFG has implemented any corrective actions.

Recommendation

DFG's should compile and reconcile their fixed asset inventory. Upon completion of the inventory, DFG's internal auditor should audit and verify the documentation and ensure that a process of ongoing asset management is developed and implemented.

Spill Response and Other Relevant Information

Data obtained from the United States Coast Guard demonstrates that oil spills in California have decreased in both number and volume since 1994. The number of spills in recent years has fallen, and since 2001 the level has been lower than the historical average since 1975.

We analyzed OSPR's spill response from 1998 through 2004, and categorized the response by type of spill and response: marine phone response; marine physical response; inland phone response; and inland physical response. While the number of OSPR physical responses to both inland and marine spills has fluctuated, marine spills appear to have had a sharp reduction in the number of physical responses with a concurrent increase in the number of phone responses.

Due to inadequate data collection and documentation procedures, OSPR is unable to provide reliable information on spills and spill responses. The lack of reliable data is impeding the agency's ability to accurately gauge California's oil spill trends and causal factors. Conversely, the SLC Marine Facilities Division (MFD) has a fully functioning database that accurately tracks spills, facilitates analysis of spill trends for causal factors, and allows recording of actions that lead to spills.

Issue

The lack of adequate data collection and documentation prevents OSPR from analyzing causal trends in the state and allocating resources to address those issues.

Recommendation

OSPR should collaborate with MFD to incorporate MFD spill database into OSPR operations.

Contingency Plans

Contingency plans are required of vessels and facilities to document actions to be taken in the event of an oil spill. Contingency planning at OSPR has reached a mature stage. There are currently 2,000 plans on file, compared to 276 in 1995.

Issue

The majority of current workload associated with the plans involves filing revisions to existing plans. This workload is performed by Oil Spill Prevention Specialists.

Recommendation

Assign general analysts to perform contingency plan related tasks to allow the specialists to perform critical field functions.

Other states have implemented systems that allow submitters to provide required information electronically. OSPR could realize significant savings and efficiencies by implementing this and other streamlining techniques.

Issue

OSPR's current method of receiving contingency plans is labor intensive and generates a significant amount of repetitive documentation.

Recommendation

Research streamlining techniques; such as implementing an online plan submittal system.

Information Technology

While not an explicit element of our review, problems with the information technology functions of OSPR were identified in our analysis and interviews. OSPR maintains over 30 databases, maintaining data on file servers and spreadsheet applications in individual personal computers.

Issue

There are missing or incomplete data in a number of OSPR databases, inconsistent interpretation of data elements among databases, and no regularity of updating and archiving the databases.

Recommendation

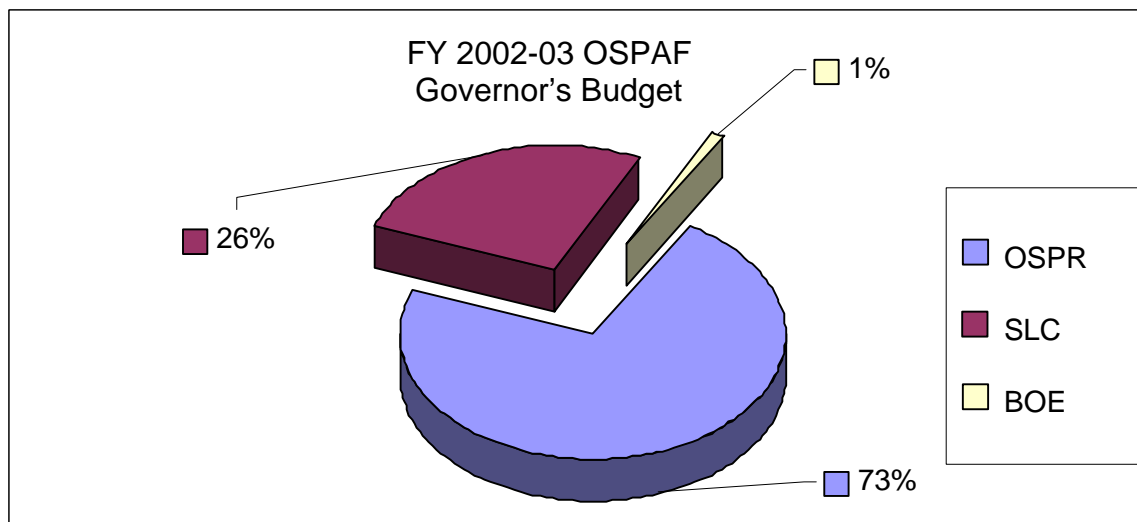
Form an IT steering committee, composed of executive management, to set priorities, policies, standards, and related processes. This committee should develop a written charter to be disseminated throughout OSPR and oversee the following activities:

- Performance of an organization-wide data assessment to identify all information assets (data files, spreadsheets, etc.) including those on personal computers.
- Implementation of standards and controls to protect information assets including archiving information stored in personal computers and the development of documentation so all business applications can be maintained and utilized in the absence of their primary developer.
- Appointment of a database administrator to establish the necessary database policies, processes, data dictionaries, data integrity standards, and other related issues. The administrator position should be staffed with an experienced professional to work in concert with the IT steering Committee and the multiple owners of data.
- Consideration of efforts to restructure the excess of 30 databases into a single data warehouse. This would require the formation of a data management committee and the assistance of a facilitator or consultant to implement the required infrastructure (policies, data definitions, data integrity standards, etc.).
- Formation of a data committee consisting of OSPR and SLC staff to explore joint issues concerning systems, data definitions, data sharing, and other related issues.

Introduction

In response to the Exxon Valdez oil spill of 1989 and the American Trader oil spill of 1990, the California Legislature passed the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) of 1990. The Act created the Oil Spill Prevention Administration Fund (OSPAP) to provide a funding base for oil spill preparation and response capabilities, and the Oil Spill Response Trust Fund (Trust Fund) to provide funding for actual response to oil spills. The OSPAP provides funds to three state agencies, the Department of Fish and Game (DFG), the State Lands Commission (SLC), and the Board of Equalization (BOE).

OSPAP appropriations totaled \$23.3 million in 2002-03, and were distributed as follows:



Government Code sections 8574.1 et seq., and 8670.1 et seq. designated DFG as the lead agency to implement the Act, and created the Office of Oil Spill Prevention and Response (OSPR) within DFG. Under the auspices of the DFG's public trustee and custodial responsibilities, the overall goal of OSPR is to protect sensitive environmental areas and ecosystems including coastal waters, estuaries, bays, beaches, and fish and wildlife. These objectives are accomplished through oil spill prevention, readiness, response, and restoration of fish, wildlife, and habitat resources damaged by oil spills.

The Act also provides funding to the SLC to prevent oil spills in the marine waters of California. The SLC has public trust responsibilities to prevent pollution and provide the best achievable protection of public health and safety and the environment for all state lands.

The Act also provides funding to the BOE for the collection of a tax per barrel of oil imported into California over marine waters and for auditing fuel tax submitters for proper reporting and remitting of taxes.

Project Scope

Government Code section 8670.42 specifies that:

"The Department of Fish and Game shall contract with the Department of Finance for the preparation of a detailed report that shall be submitted on or before January 1, 2005, to the Governor and the Legislature on the financial basis and programmatic effectiveness of the State's oil spill prevention, response, and preparedness program. This report shall include an analysis of all of the oil spill prevention, response, and preparedness program's major expenditures, fees and fines collected, staffing and equipment expenditures, spills responded to, and other relevant issues. The report shall recommend measures to improve the efficiency and effectiveness of the State's oil spill prevention, response, and preparedness program, including, but not limited to, measures to modify existing contingency plan requirements, to improve protection of sensitive shoreline sites, and ensure adequate and equitable funding for the State's oil spill prevention, response, and preparedness program."

Legislative Background

In 2001, DFG estimated that the revenue from the fee was not sufficient to fund OSPR's mandated oil spill prevention programs. In 1999-00, limited revenues required OSPR to reduce expenditures by \$1.9 million. In previous years, reserves had been sufficient to accommodate the shortfall. Government Code section 8670.42, which codified SB 849, increased the maximum oil spill prevention and administration fee from \$0.04 to \$0.05 per barrel of crude oil beginning in 2003. The BOE estimated that an increase to the oil spill prevention and administration fee of \$0.01 per barrel would generate additional yearly revenue of \$5.1 million. According to the California Energy Commission, the increased fee of \$0.01 would raise the price of gasoline in California by \$0.00025 per gallon. The BOE estimated costs of \$61,000 in 2002-03 and \$94,000 ongoing to administer the increased fee, which would be reimbursed from the OSPAF.

Government Code section 8670.53 also authorizes DFG to charge a fee on nontank vessels for certifying financial responsibility for an oil spill, extended a sunset date on provisions allowing DFG to establish a lower standard of financial responsibility for nontank vessels, and modified the membership of an advisory committee.

The sponsor of SB 849 indicated that the authority to establish a lower level of financial responsibility has reduced insurance costs while maintaining assurances that responsible parties have the ability to cover costs of oil spills. According to the sponsor, an unnecessarily high insurance requirement creates adverse economic effects as these costs are passed on to ports and port users.

Prior to the passage of SB 849, the law required the owners of nontank vessels (vessels that do not carry oil as their primary cargo) to demonstrate the ability to pay at least \$300 million to cover damages from an oil spill. The OSPR Administrator can authorize a lower level of financial responsibility for privately owned nontank vessels with a carrying capacity of

6,500 barrels or less, and state or federally-owned nontank vessels with a carrying capacity of 7,500 barrels or less. This level of responsibility, however, must be set at a level that would be adequate to cover the expected cleanup costs and damages from an oil spill in marine waters. This provision will sunset on January 1, 2006. SB 849 also authorized DFG to charge a fee of up to \$2,500 to cover the department's costs related to providing the financial responsibility certification to a nontank vessel owner or operator.

Methodology

Our review included surveying literature regarding oil spills, attending relevant meetings, and conducting interviews with OSPR, SLC, and BOE staff and a wide variety of external stakeholders from the industry, other governmental organizations, and environmental organizations. Further, we compiled and analyzed expenditure, revenue, and staffing data. We also analyzed performance data, such as contingency plans, oil spills, drills, and responses.

Through the course of the review, we used a number of techniques for gathering information. Among these were phone and in person interviews, focus groups, meetings, and questionnaires. Significant interviews and meetings included:

- OSPR managers and staff with responsibilities ranging from enforcement to information technology support services
- The SLC Marine Facilities and Mineral Resources Management Division managers and staff
- DFG budget staff
- BOE Audit and Accounting Staff
- Other key stakeholders and interested parties including:
 - United States Coast Guard (USCG)
 - United States Environmental Protection Agency
 - The Pacific States-British Columbia Oil Spill Task Force
 - The Ocean Conservancy
 - The San Francisco Bay Conservation and Development Commission
 - California Coastal Commission
 - The Office of the State Fire Marshal
 - The Department of Conservation, Division of Oil, Gas, and Geothermal Resources

- Contingency Plan Submitters
- Third Party Contingency Plan Preparers
- Oil Spill Response Organizations
- The State Interagency Oil Spill Committee
- The OSPR Technical Advisory Committee
- San Francisco Harbor Safety Committee

Notes from each interview were compiled and analyzed for common themes. These themes are arrayed in a summary matrix in the Stakeholder Identified Issues section of this report.

Specific sections of this report reflect input from contingency plan submitters and OSPR information technology staff. Also, input was provided by the State of Washington's Department of Ecology, a member of the Pacific States-British Columbia Oil Spill Task Force.

OVERVIEW OF THE OFFICE OF SPILL PREVENTION AND RESPONSE

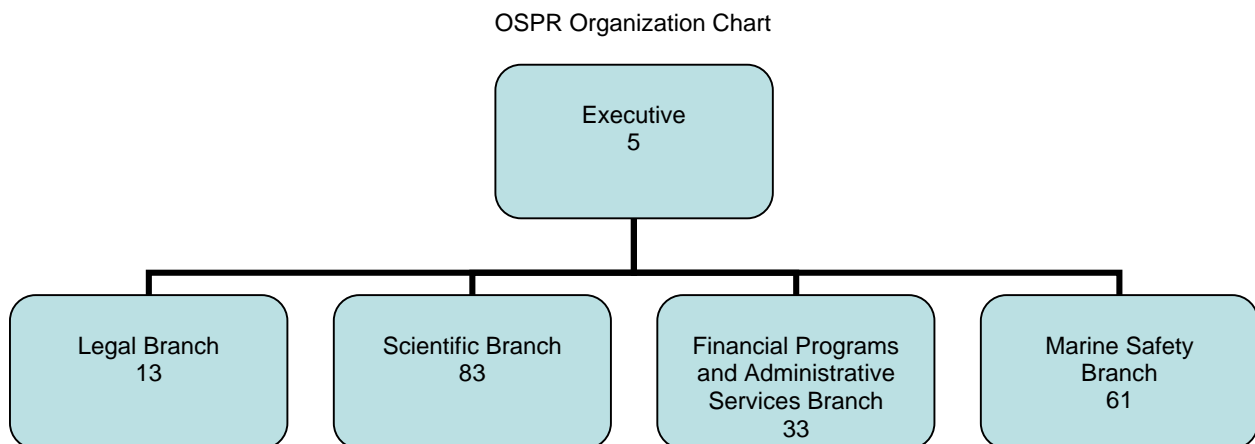
The Office of Spill Prevention and Response (OSPR) was created by the Act in 1991 as a division within Department of Fish and Game (DFG). The Act established OSPR as a comprehensive government and industry program to address oil spill prevention and response.

The Administrator of OSPR is appointed by the Governor to implement the Act. The Administrator holds substantial authority to direct spill response, cleanup, natural resource damage assessment, and restoration. The Administrator is also a Chief Deputy Director of DFG, and thus retains the DFG's regulatory authority and public trustee responsibility to protect the State's fish, wildlife, plants, and their habitats.

OSPR is primarily funded by the Oil Spill Prevention Administration Fund (OSPAF). The Act created a State Oil Spill Response Trust Fund (Trust Fund) to pay the immediate costs of oil spill response. OSPR also receives funding from the Trust Fund. Although parties responsible for oil spills are eventually responsible for all clean up and habitat restoration costs, the Trust Fund allows for immediate State response to oil spills.

OSPR comprises four branches and executive staff; including Legal Branch, Scientific Branch, Financial Programs and Administrative Services Branch, and the Marine Safety, Enforcement, and Response Branch. OSPR currently has 185 staff with 9 vacancies.

The following chart identifies the organizational structure of OSPR, including authorized personnel years, at the time of our review.



Each branch has specific areas of responsibility, as follows:

Legal Branch

- Regulations
- Initiation and maintenance of legal actions against Responsible Parties
- Settlement negotiations and monitoring

Scientific Branch

- Marine Pollution Studies
- Petroleum Laboratory
- Bio-assessment
- Natural Resource Damage Assessment
- Spill Response Support
- Habitat, Protection, Response, and Veterinary Services
- Creation and maintenance of the Oiled Wildlife Care Network (OWCN)
- Creation and maintenance of the Marine Wildlife Veterinary Care and Research Center

Financial Programs and Administrative Services Branch

- Personnel
- Contracts
- Budgets
- Business Services
- Certificates of Financial Responsibility
- Cost Recovery
- Information Technologies
- External Affairs

Marine Safety, Enforcement and Response Branch

- Oil Spill Contingency Plans
- Vessel inspections
- Statewide Coastal Protection Review
- Reviews of Area Spill Response Plans required by the Federal Oil Pollution Act of 1990
- Analyze and promote vessel traffic routing and other safety measures to reduce marine casualties and pollution incidents in California marine waters
- Establish and participate in Harbor Safety Committees in California's five largest marine ports
- Conduct Spill Response Training Drills

Overview of the State Lands Commission

Two divisions of the SLC receive OSPAF Funding, the Marine Facilities Division (MFD) and the Mineral Resources Management Division (MRMD). The MFD monitors marine oil transfers and inspects marine oil transfer facilities to prevent discharge of oil into state marine waters. The MRMD monitors oil production facilities operating on state lands. Both divisions develop state regulations affecting the safety of marine oil transfers, transfer facilities and pipelines, and oil production facilities. Unlike OSPR, whose OSPAF duties include prevention, readiness, and response, the SLC duties are solely prevention related.

Overview of the Board of Equalization

OSPAF funds two personnel years in BOE's Fuel Tax section. Activities of the BOE include collection of the Oil Spill Prevention and Response Fee, promulgating regulations related to collection of the fee, and auditing fuel volume information that is self-reported by the oil industry.

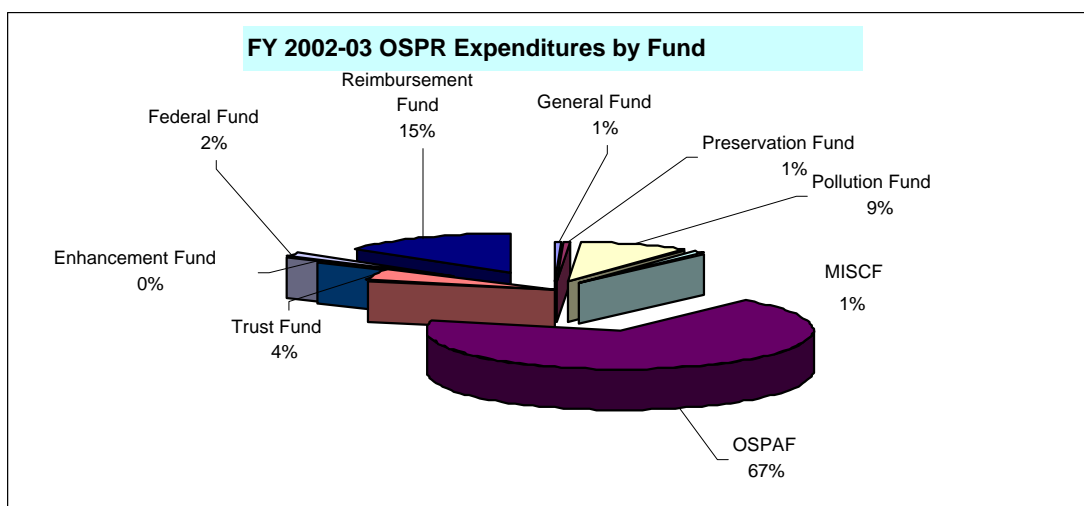
Office of Spill Prevention and Response (OSPR) Program Funds

OSPR's programs are funded from several sources, including:

- General Fund
- Fish and Game Preservation Fund (Preservation Fund)
- Fish and Wildlife Pollution Account (Pollution Fund)
- Marine Invasive Species Control Fund (MISCF)
- Oil Spill Prevention and Administration Fund (OSPAF)
- Oil Spill Response Trust Fund (Trust Fund)
- Environmental Enhancement Fund (Enhancement Fund)
- Federal Trust Fund (Federal Fund)
- State Reimbursement Fund (Reimbursement Fund)

Appendix A contains a detailed description of each Fund.

Total OSPR expenditures for 2002-03 were \$25.2 million. The chart below illustrates the relative percentage of OSPR expenditures by fund.



Source: 2004-05 Governors Budget

The following four funds represent approximately 95 percent of total OSPR expenditures:

- The OSPAF represents 67 percent of OSPR expenditures. The OSPAF is the fund used to prevent and prepare for a marine oil spill including all costs related to those activities.
- The Reimbursement Fund represents reimbursements expected to be recovered from other state agencies and accounts for approximately 15 percent of OSPR expenditures.
- The Pollution Fund, representing 9 percent of OSPR expenditures, pays clean-up costs associated with non-oil related spills and for non-marine oil spills.
- The Trust Fund supports all OSPR expenditures that result from an actual marine oil spill, and accounts for 4 percent of OSPR expenditures.

The Table below lists OSPR expenditures from the major funding sources for 2000-01 to 2003-04.

OSPR Major Expenditures by Fund				
Fund	2000-01	2001-02	2002-03	2003-04
OSPAF	15,775,465	16,697,948	16,991,236	19,452,370
Pollution Fund	3,261,103	3,696,669	2,409,567	2,257,845
OSRTF	1,139,768	2,693,017	2,212,124	921,411

Source: CALSTARS Q14 Reports for DFG

OSPAF Expenditures

OSPAF expenditures represent approximately 67 percent of OSPR program expenditures. The OSPAF expenditure areas include:

- Prevention – Eliminate discharges of oil into the marine environment using the best achievable technology and marine practices.
- Readiness – Ensure that OSPR and industry (tank vessels, nontank vessels, marine facilities, and Oil Spill Response Organizations) are ready to respond to all oil spills.
- Restoration and Remediation – Ensure timely and effective restoration of natural resources injured by spills.
- Administrative Support – Ensure adequate funding, a safe working environment, and effective support services.

The chart below details expenditures for 2000-01 through 2003-04.

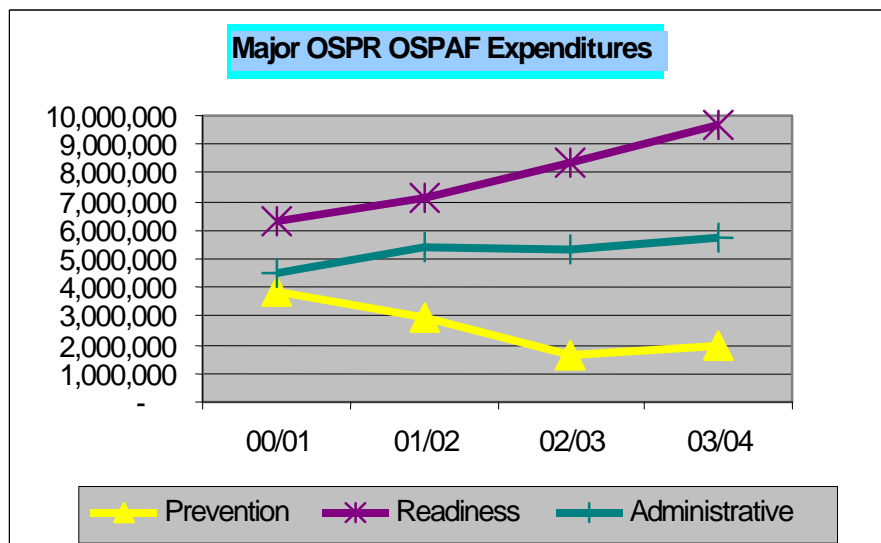
OSPR Expenditures from OSPAF								
	2000-01		2001-02		2002-03		2003-04	
Program	Total	%	Total	%	Total	%	Total	%
Local Assistance	634,900	4%	750,148	4%	744,063	4%	735,841	4%
Prevention	3,824,355	24%	2,929,991	18%	1,664,144	10%	1,937,417	10%
Imminent Spill Threat	21,923	0%	19,726	0%	25,300	0%	137,521	1%
Readiness	6,344,813	40%	7,105,954	43%	8,401,366	49%	9,707,723	50%
Restoration & Remediation	9,086	0%	701	0%	367,575	2%	538,988	3%
Administrative	4,499,554	29%	5,423,635	32%	5,344,659	31%	5,743,439	30%
Pro Rata	440,834	3%	467,792	3%	421,392	2%	651,443	3%
Chemical Lab Addition	-	0%	-	0%	22,737	0%	-	0%
Total	15,775,465	100%	16,697,948	100%	16,991,236	100%	19,452,370	100%

FY 2002-03 and 2003-04 include expenditures encumbered as of 6/30/04.

Source: CALSTARS Q14 Reports for DFG.

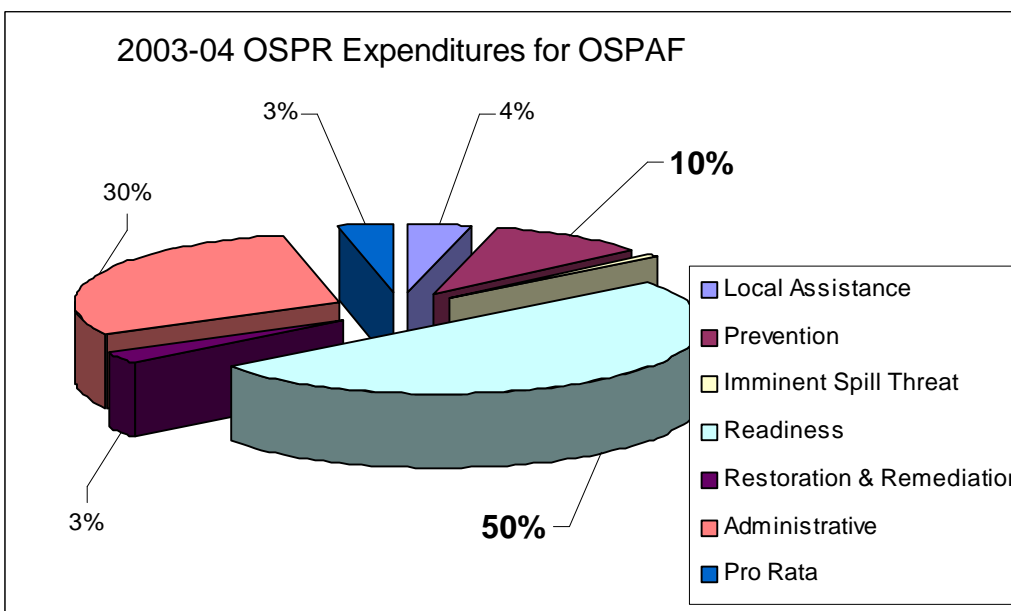
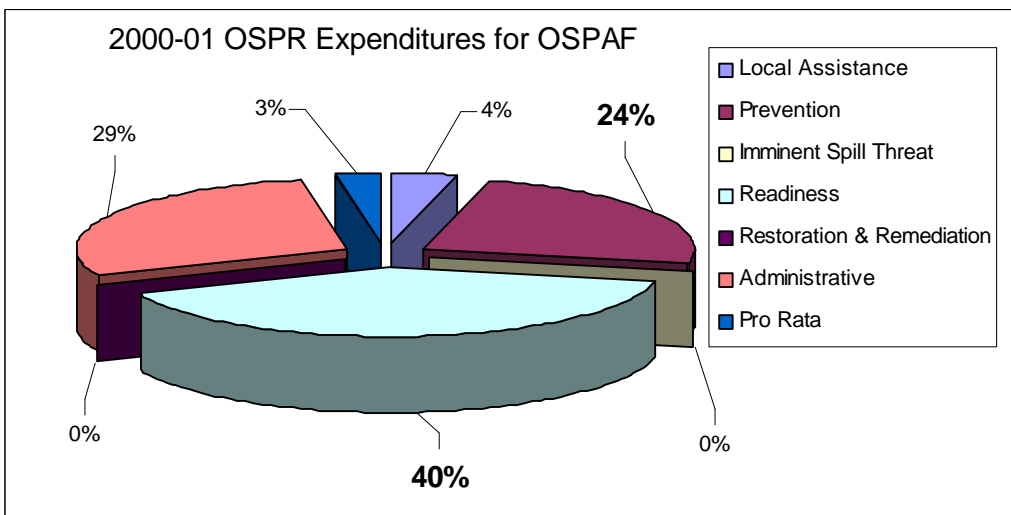
The above chart shows that over a four-year period OSPR Restoration and Remediation, Readiness, and Imminent Spill Threat expenditures have steadily increased while Prevention expenditures have dramatically decreased. Local Assistance and Administrative expenditures have generally increased over the four-year period. Over the last two years Pro Rata expenditures have likewise increased.

The three major program expenditure areas for the OSPAF are Prevention, Readiness, and Administration. Response expenditures are borne by the Trust Fund and eventually reimbursed either by the parties responsible for the spills or by the federal government for spills for which no responsible party can be identified. The chart below shows Prevention spending is on a downward trend, while both Readiness and Administration are increasing.



Source: CALSTARS Q14 Reports for DFG

A comparison of OSPR's OSPAF related expenditures shows Readiness expenditures have increased as a percentage of total OSPR expenditures, going from 40 to 50 percent of total expenditures from 2000-01 to 2003-04. During that same period, Prevention expenditures decreased from 24 to 10 percent of total expenditures.



Source: CALSTARS Q14 Report for DFG

Excessive Distributed Administration

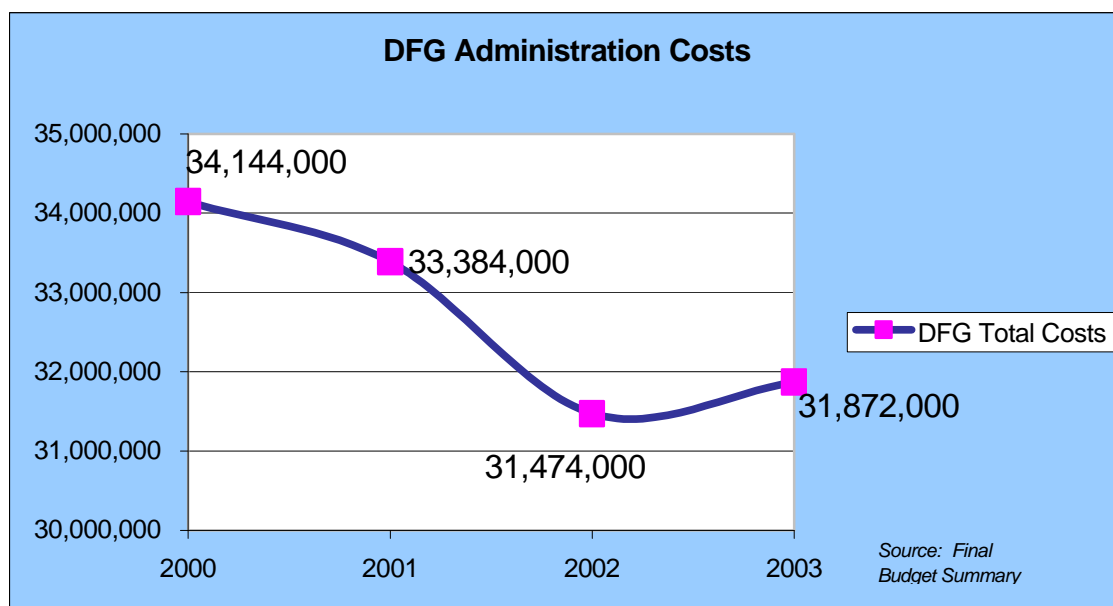
The Department of Fish and Game (DFG) pools agency-wide indirect costs for redistribution across all funds and programs, including OSPR. Over the last four fiscal years, OSPR's overall proportion of distributed administration, as a percentage of net OSPAF Expenditures has grown from 18 to 21 percent, as shown below, and averaged 19.8 percent over the period.

OSPR OSPAF Distributed Administration				
	2000-01	2001-02	2002-03	2003-04
Total OSPR OSPAF Expenditures	15,775,465	16,697,948	16,991,236	19,452,370
Less Distributed Administration	2,426,427	2,823,195	2,775,873	3,388,356
Net OSPAF Expenditures	13,349,038	13,874,753	14,215,363	16,064,014
Percentage of Distributed Administration to Net OSPAF Expenditures	18%	20%	20%	21%

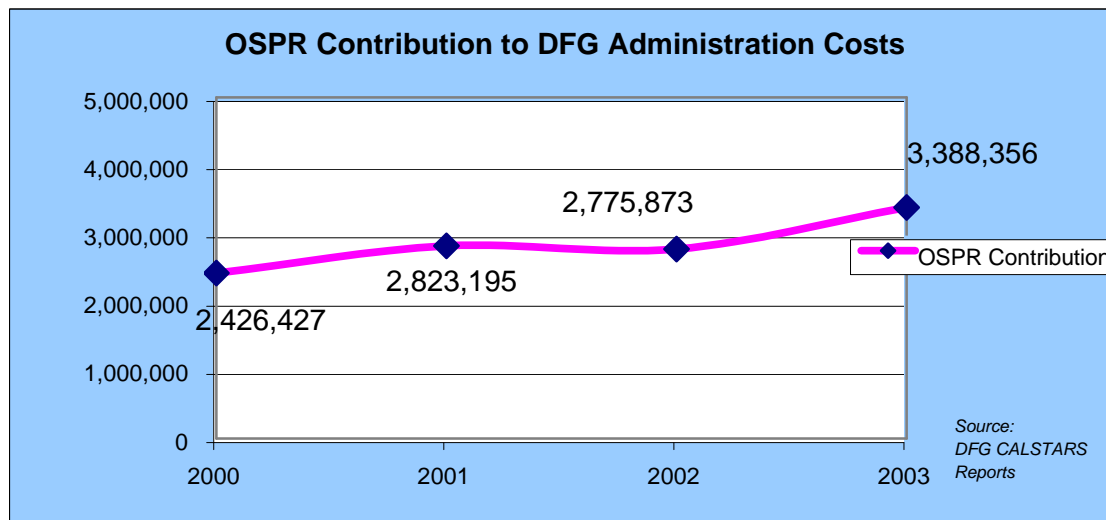
OSPR's distributed administration costs as a percentage of all DFG distributed administration costs have also shown a steady growth trend, rising from 7 percent in 2000-01 to 11 percent in 2003-04.

DFG Distributed Administration Costs				
	2000-01	2001-02	2002-03	2003-04
DFG Total Distributed Administration Costs	34,144,000	33,384,000	31,474,000	31,872,000
OSPR OSPAF Contribution	2,426,427	2,823,195	2,775,873	3,388,356
Percentage of OSPR Distributed Administration to Total DFG Distributed Administration Costs	7%	8%	9%	11%

During the period of 2000-01 through 2003-04, DFG administration costs have declined. This trend is illustrated in the following chart:



Despite the trend of declining administrative costs, OSPR's contribution to DFG Administration has steadily increased:



Undocumented Allocation Methodology

According to the State Administrative Manual (SAM) section 8756, the distribution of indirect costs across the department's programs should be related to a direct cost base such as personnel costs or direct total costs. However, DFG was unable to provide any documentation of the direct cost base it uses for distributing indirect costs. The DFG Budget Office did state that some funds bear a higher indirect cost burden because of statutory limitations upon the indirect costs that may be charged to other funds.

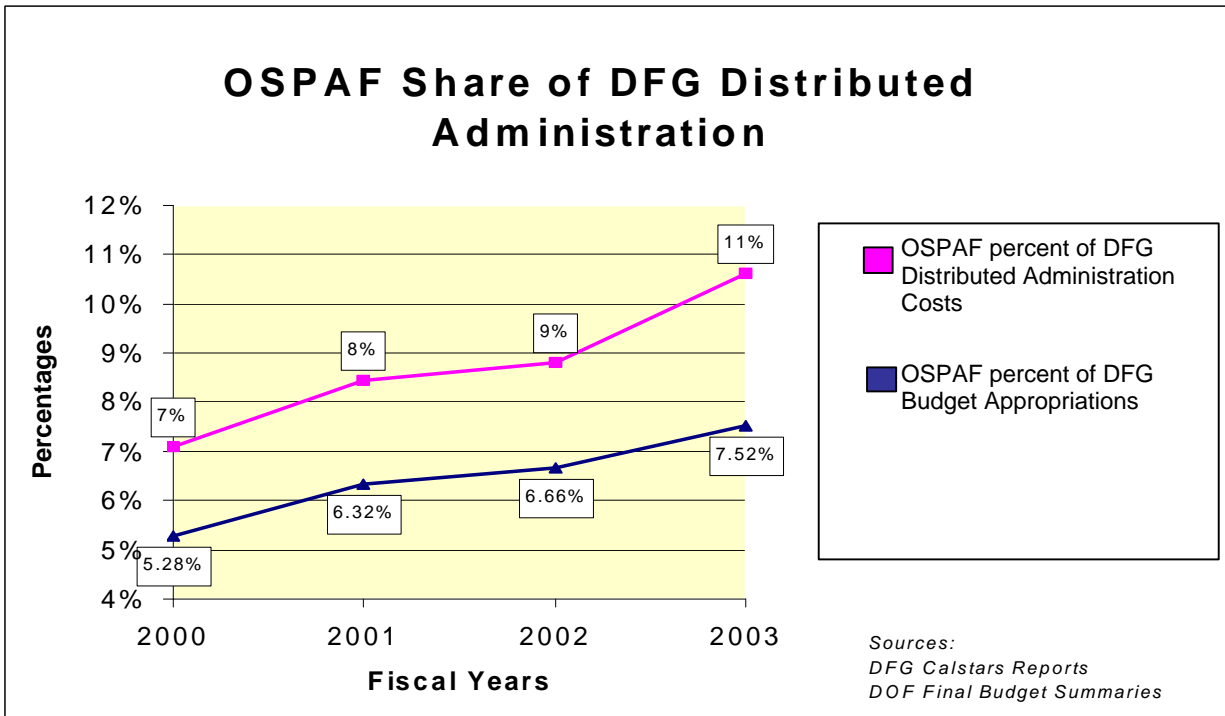
In the Department of Finance's (DOF) 1995 OSPR Program Review, DOF alerted DFG to perceived inequities of its distributed administration funding. At that time DOF found the following imbalances:

- OSPR paid a higher percentage of its revenues for distributed administration costs than any other DFG fund.
- DFG Regional Offices charge more administrative positions to the Distributed Administration cost pool than OSPR.

As a result of these inequities, DOF found, "OSPR was not only paying the highest indirect rate, it also does not recover some of its costs which are comparable to those recovered by DFG Regional Offices."

The 1995 report also described DFG's plan to remedy these disparities: "The DFG budget office and an administrative task force will review the current method for distributing and identifying administrative costs, with a view to standardizing the costs and number and types of positions which are allowable charges to distributed administration."

As of 2004, the recommended review has not been initiated and DFG continues to charge unsupported distributed administration to the OSPAF, as indicated in the following graph.



The graph indicates that the OSPAF funds DFG's administration costs disproportionate to its share of DFG's budget appropriations. In 2000-01, the gap between the percentages of distributed administration costs charged to the OSPAF and its share of the DFG budget was 1.72 percent. By fiscal year 2003-2004 that gap rose to 3.48 percent.

In contrast to DFG, the State Lands Commission (SLC) uses sequential allocation, a widely accepted activity-based costing method, to distribute its indirect charges. As required by SAM, the methodology is documented and is based upon direct costs. The allocation process is transparent and results in a reasonable division of overhead to various SLC programs. The chart below indicates that the OSPAF rate of indirect costs at SLC averaged approximately 10 percent from 2000-01 to 2003-04, while OSPR rate averaged 20 percent over the same period.

SLC Distributed Administration Costs				
	2000-01	2001-02	2002-03	2003-04
Total OSPAF Expenditures	5,409,340	6,494,086	6,441,472	7,679,165
Less Distributed Administration Costs	415,222	752,968	571,918	585,626
Net OSPAF Expenditures	4,994,118	5,741,118	5,869,554	7,093,539
SLC Percent of Net Expenditures	8%	13%	10%	8%
OSPR Percent of Net Expenditures	18%	20%	20%	21%

Another way to view the equity of distributed administrative charges paid by OSPR is from a personnel years (PY) perspective. The number of PY's in the 2001-02 through 2003-04 Governor's Budget shows OSPR's portion of DFG's positions averaged 11 percent or less, including OSPR PY's already charged to distributed administration. Therefore, if OSPR's percentage of DFG's PYs is assumed to be a reasonable indicator of proportionate administrative charges, the rate would be significantly less than the current 20 percent rate.

Recommendation

The DFG budget office should review the distributed administration methodology to standardize charges to the indirect cost pool and the distribution of those costs. DFG should also document the direct cost base used for distributing indirect costs, as required by the SAM. The DFG Internal Auditor should review the resulting methodology and ensure that it is properly computed and documented.

Administrative Barriers to Earning Trusteeship Fees

Habitat remediation projects restore the areas affected by a spill to their prior level of usefulness for both wildlife support and recreation. The costs of remediation are usually determined as part of a legal settlement. The responsible party places the required funds into a trust for disbursement over the life of the remediation project. The presiding court chooses a Trustee Council to monitor the remediation trust fund. These Councils are composed of representatives of the various agencies responsible for the restoration projects, and can consist of DFG and other state and federal agencies. The trust funds are shared and managed cooperatively, and are disbursed by consensus only. Contractors manage the funds for a small fee and act as a pass through agent as directed by the Trustee Councils.

Because DFG assesses a 20 percent overhead charge on all contracts, Trustee Councils have used contractors that assess significantly lower fees. OSPR's settlements with oil spill responsible parties total over \$110,000,000 in natural resource damages since 1990. DFG would have earned in excess of \$3.3 million if it had acted as the pass through agent for these funds, based on an industry accepted 3 percent overhead rate.

Currently, about \$86 million in restoration settlement funds remain unspent and await allocation. These funds represent over \$2.5 million in potential future administration fees to DFG. However, OSPR has been unable to procure DFG permission to reduce the amount of indirect costs charged against the contracts. While DFG Accounting has the ability to create special overhead exemptions, the lack of communication and cooperation between DFG and OSPR has prevented this from occurring.

Recommendation

DFG and OSPR executive staff should collaborate to create a mechanism that allows DFG to act as the pass-through contractor for natural resource remediation projects. Together, DFG and OSPR should establish guidelines that enable OSPR to evaluate the actual amount of administrative labor that will be required by the contract and allow OSPR to fully recover the costs of providing oversight.

Overtime Expenditures Are Not Excessive

During our interviews, several respondents indicated that OSPR staff claimed excessive overtime. We identified and analyzed overtime expenditures and determined that overtime represented an acceptable rate of three to four percent of salaries and benefits.

State Lands Commission OSPAF Expenditures

SLC OSPAF expenditures account for approximately 27 percent of all OSPAF expenditures, and are summarized below:

State Lands OSPAF Expenditures from CALSTARS Q16 Reports								
FY	2000-01		2001-02		2002-03		2003-04	
Program	Total	%	Total	%	Total	%	Total	%
Special Projects	-	0%	-	0%	-	0%	530,690	7%
Marine Facilities Inspection	3,187,046	59%	4,733,083	73%	3,976,433	62%	4,680,289	61%
Regulations	676,207	13%	543,632	8%	800,592	12%	516,657	7%
System Safety	964,700	18%	931,551	14%	995,296	15%	1,088,358	14%
Contingency Planning	133,401	2%	142,492	2%	136,338	2%	144,849	2%
Operations Manual Review	427,986	8%	143,328	2%	378,872	6%	590,272	8%
Mitigation Monitoring	20,000	0%	-	0%	153,940	2%	126,000	2%
Other	-	0%	-	0%	-	0%	2,049	0%
Total Cost	5,409,340	100%	6,494,086	100%	6,441,472	100%	7,679,165	100%
INDIRECT DISTRB COST	415,222		752,968		571,918		585,626	
% of Total Costs	8%		13%		10%		8%	

Source: CALSTARS Q16 Reports for the SLC

The majority of SLC OSPAF expenditures occur in the Marine Facilities Inspection Unit (MFI), accounting for 64 percent from 2000-01 to 2003-04. The System Safety Unit and Regulations accounted for 15 percent and 10 percent respectively of SLC OSPAF expenditures during the same period. In 2003-04, the SLC started charging Special Projects to the OSPAF fund. Previously these Special Projects were funded by the General Fund.

SLC total Indirect Distributed Costs represent an average of 10 percent of SLC OSPAF expenditures for 2000-01 to 2003-04.

REVENUES, FEES, AND FINES COLLECTED

Oil Spill Prevention Administration Fund (OSPAP) Fund 320 Revenues

Since the OSPAF fee increase in January 2003, revenues have surpassed expenditures and revenue is projected to remain higher than expenditures in future fiscal years.

OSPAP Collections by Agency	2000-01	2001-02	2002-03	2003-04
OSPAP revenues collected by BOE:	21,257,074	19,663,395	20,824,215	33,198,232
Revenues Collected by DFG:				
OSPAP Nontank Vessel COFR Fees	149,142	109,055	1,528,072	5,068,361
SMIF Interest	684,502	431,871	126,991	213,097
OSPAP Cost Recoveries	269,441	319,906	132,444	25,801
OSPAP Other Revenues	1,200	14,570	4,011	5,382
DFG Collections Total	1,104,285	875,402	1,791,518	5,312,641
SLC Revenues: Cost recoveries and grants	159,742	1,239	50,000	-
OSPAP Total Revenues	22,521,101	20,540,036	22,665,733	38,510,873

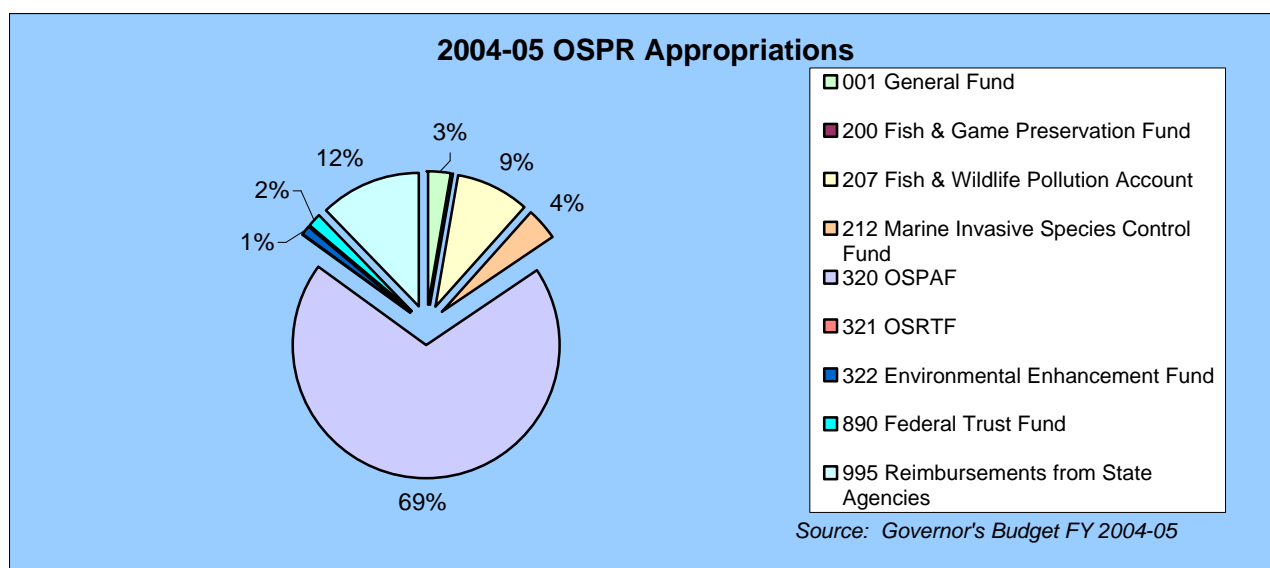
Source: Board of Equalization, Dept. of Fish and Game, State Lands Commission

The OSPAF receives revenue from the following sources:

- OSPAF fees collected from fee-assessable oil shipped by tankers into California or transported via marine pipeline (such as from an offshore well or terminal).
- OSPAF fees collected from nontank vessels at the filing of the biennial Certificate of Financial Responsibility (COFR).
- Interest earned through the State Surplus Money Investment Fund (SMIF) on excess cash deposits.
- Recovery of costs expended during spill incidents on behalf of the parties responsible for the spill.
- Grants received from the Federal government.
- Miscellaneous revenues, including escheatment of warrants.

The Office of Spill Prevention and Response (OSPR) primarily funds its programs with revenues collected through the OSPAF. In 2004-05, OSPAF accounted for 69 percent of total OSPR appropriations. The remaining 31 percent of OSPR appropriations are from the following State funds:

- General Fund
- Fish and Game Preservation Fund (Fund 200)
- Fish and Wildlife Pollution Account (Fund 207)
- Marine Invasive Species Control Fund (Fund 212)
- Environmental Enhancement Fund (Fund 322)



The Legislature also appropriates funds for other State agencies to use OSPR resources (such as petroleum laboratories) on a reimbursement basis. The Reimbursement Fund (Fund 995) is the budgetary designation for the reimbursement of appropriations.

OSPR staff collect nontank vessel COFR fees that range from \$500 to \$2,500 depending upon the vessel tonnage. Other revenues, such as cost recoveries, reimbursements, and interest, are collected through OSPR personnel and accounting staff at DFG. The State Lands Commission (SLC) collects additional miscellaneous revenues.

Board of Equalization

The BOE collects the majority of OSPAF revenues from terminal and pipeline operators who file monthly returns detailing the amount of oil shipped through their facilities. Crude oil and other petroleum products were originally assessed \$.04 per barrel but as of January 20, 2003 are assessed \$.05 per barrel. The BOE receives approximately two personnel years (PYs) to support the OSPAF collection activities, including feepayer audits. BOE collection costs charged to the OSPAF have consistently dropped since 2001-02, even as the dollar amount of collections rose:

BOE Revenues and Expenditures	2000-01	2001-02	2002-03	2003-04
OSPAP revenues collected by BOE	21,257,074	19,663,395	20,824,215	33,198,232
BOE collection costs	226,005	267,083	239,000	214,634
BOE percentage of revenues	1.1%	1.4%	1.1%	0.6%

The BOE audits major oil refiners on three-year cycles. These refiners account for roughly 88 percent of OSPAP's yearly fee revenue from oil. Smaller oil producers and refiners are audited infrequently. Since 1996 the BOE has performed sixteen feepayer audits resulting in approximately \$2.7 million of additional tax assessments, penalties, and interest. The tax assessments were billed after auditors discovered OSPAP taxes that were unpaid due to feepayer misunderstandings or disputes regarding the specific petroleum products that are fee-assessable. Most of these audits covered reporting periods prior to 2000. Audits performed for reporting periods after 2000 have more often resulted in fee refunds rather than in additional revenue. The reasons for the refunds include:

- Clerical reporting or calculation errors by fee payers.
- Double fee payments by both terminal operators and legal owners for products being transported into California.
- Fees paid for imported MTBE (a gasoline additive) that were not derived from crude oil and not fee assessable.
- Fees paid for products shipped within California that were not fee assessable.

OSPR financial and administrative staff have indicated their concern about BOE's lack of audit procedures covering small fee payers. They contend that, whether by error or intentionally, these companies may not be reporting their fee-assessable products accurately. In September 2002 the BOE requested additional funding to audit OSPAP returns submitted by small companies, however the request was denied.

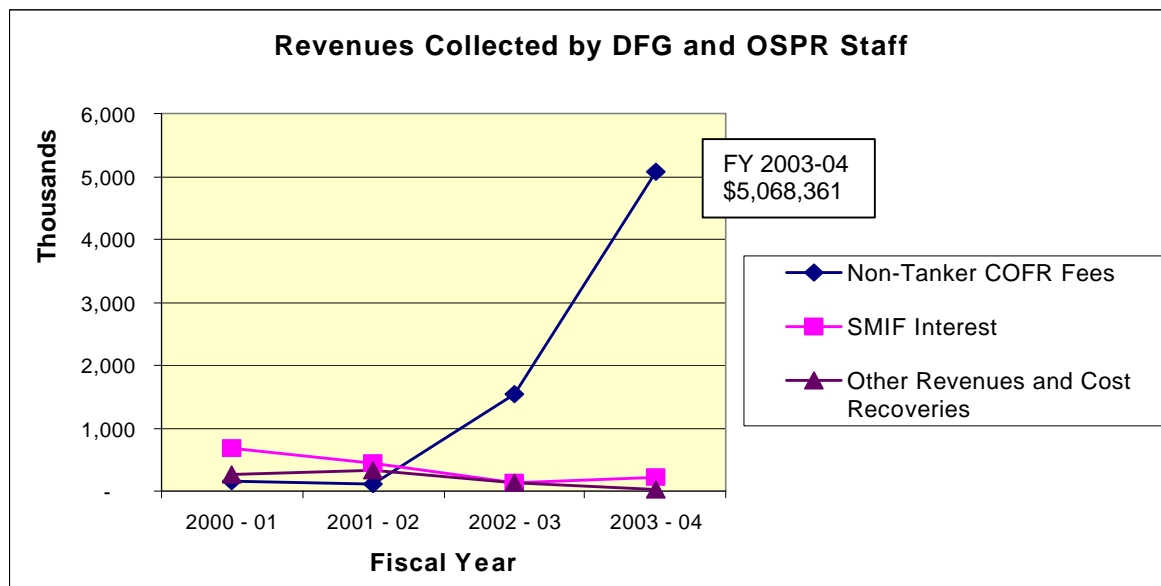
In 2003-04 the amount of fees paid by small fee payers was approximately \$3 million of the total fees collected. An additional auditor would cost an estimated \$100,000 per year. This cost would be recovered if unreported fee-assessable volume of 3.3 percent (2 million barrels) of crude oil or petroleum products were discovered each year through additional audits of the smaller fee payers. Without testing, it is unknown if the risk posed by inaccurate reporting by these fee payers is significant enough to warrant an additional staff auditor.

Recommendation

Obtain approval for a limited term contract to perform test audits of selected small fee payers to assess the cost-benefits of these audits.

Department of Fish and Game

In addition to the approximately \$33 million the BOE collected for the OSPAF in 2003-04, DFG collects OSPAF funds from application fees, Surplus Money Investment Fund interest and other revenues and cost recoveries.



Nontank Certificates of Financial Responsibility

OSPR collects Certificate of Financial Responsibility (COFR) application fees from shipping companies. COFR fees are paid for each vessel every two years. Fiscal year 2003-04 was the first full year of COFR revenue reflecting an increased fee of \$2,500 per COFR.

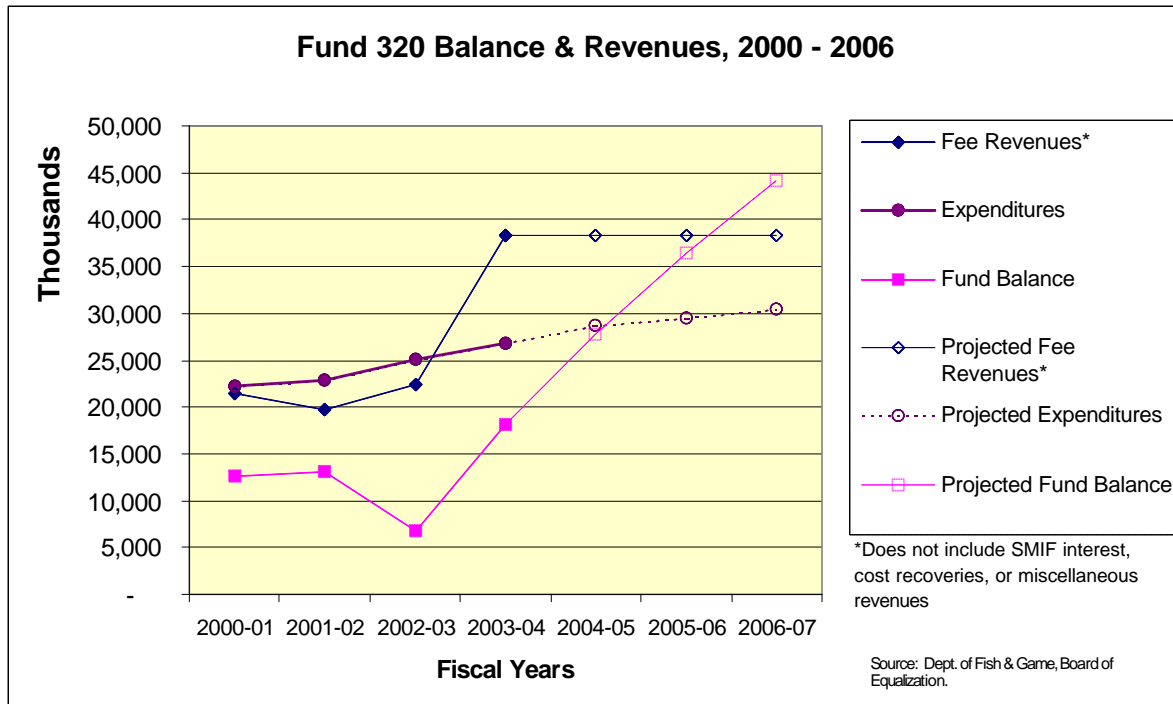
OSPR staff indicate that shipping companies delay the COFR process until they are certain that their vessels will enter California waters. This reluctance to submit COFR applications until absolutely necessary requires expedited processing by OSPR staff. These last minute applications disrupt normal office workflow and demand extra staff time to expedite the approval process. Currently, no additional fees are assessed for expedited processing.

Recommendation

COFR applications submitted for expedited processing should be assessed a fee to compensate for the additional staff time they require.

Projected Fund Balance Surplus

In 2001-02, OSPAF expenditures exceeded fee revenue. Since the January 2003 fee increase, revenues surpassed projections and the fund balance recovered the losses experienced during the years of under-funding. The following chart illustrates the relationship between revenues and expenditures for the period 2000-01 through 2006-07.



The chart details the revenues from assessments on oil and nontank vessel COFR fees only. Because the other OSPAF revenues are relatively immaterial, they were excluded from the analysis.

California's dependence upon Alaskan and foreign oil has risen since the inception of OSPR and is expected to continue into the foreseeable future. Since all oil and refined petroleum shipped into California is fee-assessable, OSPAF revenues are expected to remain high. If expenditures remain at their current level, or rise only with the level of inflation, we project the fund balance to reach \$45 million by 2006-07.

The excess fund balance may provide opportunities for OSPR to strengthen its prevention, readiness, and response activities. OSPR personnel and outside stakeholders have made many suggestions to increase the effectiveness of OSPR program. Some suggestions include:

- Support of harbor safety mechanisms such as the PORTS system in San Francisco Bay and Long Beach.
- An increased presence of OSPR personnel at oil industry and Oil Spill Response Organization readiness drills.
- More OSPR wardens to allow for better patrol coverage and more time for training and enforcement initiatives.
- Full funding of training opportunities and necessary travel.
- Research and development into new prevention and response technologies, including possible partial reimbursement for research costs provided to oil companies or other entrepreneurs who develop new technologies.

- Additional research into areas of spill prevention involving human behavior and management techniques.
- Greater funding for the SLC managed spill database with integration of OSPR data.
- Rebates to marine terminal operators and shipping companies for the retrofitting or redesign of existing equipment to bring it up to current prevention technology standards.
- Utilization of funds to secure updated equipment for the application of dispersants at any point along the coast within two hours of spill.
- Additional research into the effect of spilled oil on wildlife biology and behavior.
- Comprehensive study of the impacts of in situ burning, and the trade-offs of burning versus impacts of dispersing oil or letting it impact beaches.
- Research into possible strategies and technologies that would reduce the effect of spills on marine and shoreline habitats and would accelerate habitat remediation.
- Creation of oil bilge water collection facilities, based on the Texas model, which could be used at no cost to boat owners.
- Support for inland oil spill response and prevention.
- The oil industry and other stakeholders may also wish to negotiate a fund balance cap that would allow a lesser fee rate to take effect when a predetermined dollar amount is reached.

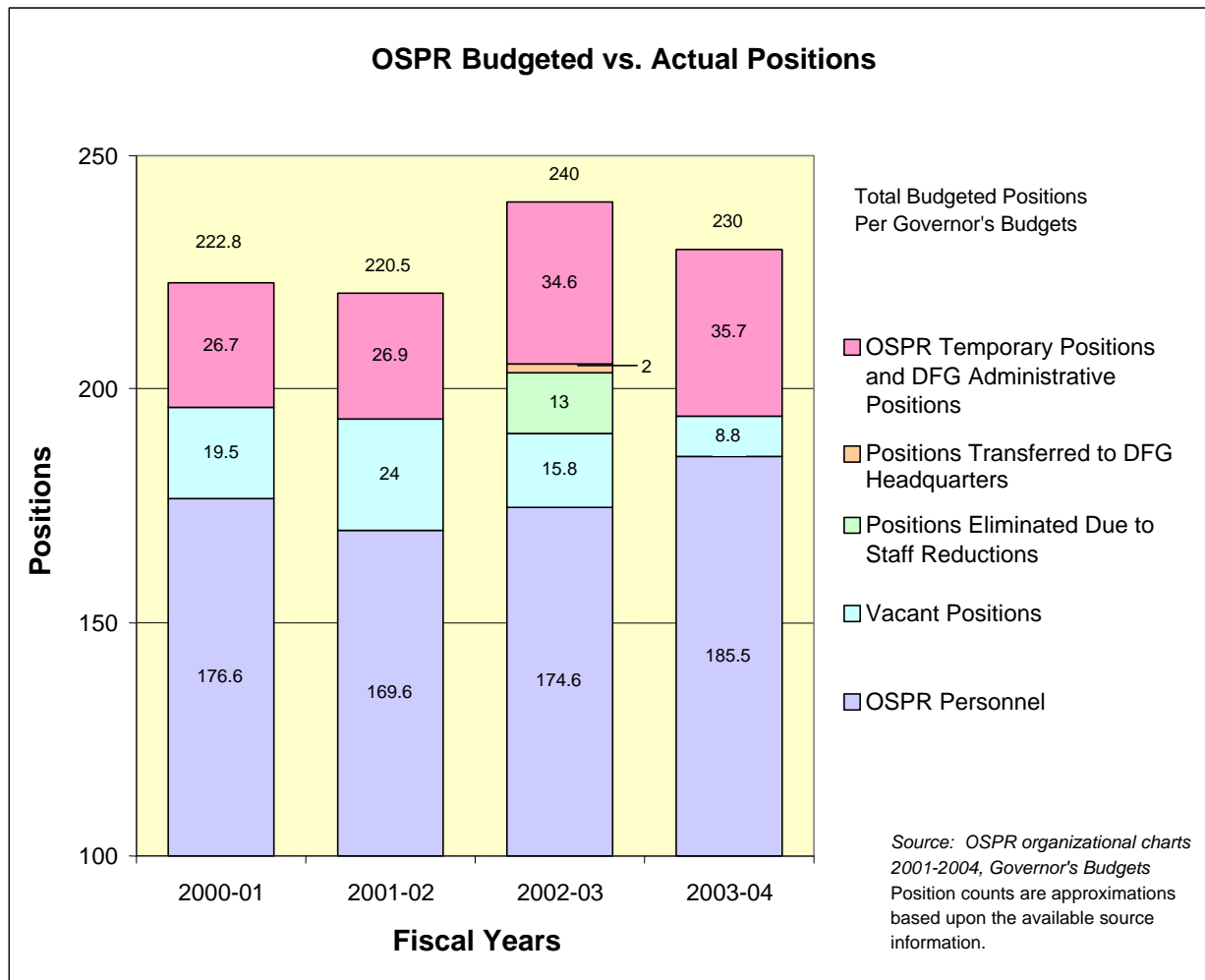
Recommendation

OSPR, SLC, the oil industry, and other stakeholders should work together to decide upon the most effective plan for program activities funded by the OSPAF and should form a joint strategy for the use of the projected OSPAF funds.

STAFFING AND EQUIPMENT LEVELS

Staffing Levels

The Oil Spill Prevention Administrative Fund (OSPAP) funds personnel primarily in the Department of Fish and Game (DFG) and the State Lands Commission (SLC). The number of Oil Spill Prevention and Response (OSPR) personnel and the number of SLC personnel funded through the OSPAP remained fairly stable in the last four years despite a statewide hiring freeze that was in force from October 2001 through June 2004.



OSPR Staffing Levels 2000-01 through 2003-04

Although OSPR is not funded through the General Fund, it was impacted by the State's General Fund reductions in 2002-03. DFG transferred some positions from OSPR to its headquarters, and allocated part of its General Fund reductions to OSPR. OSPR's share of DFG administrative positions also increased during those years.

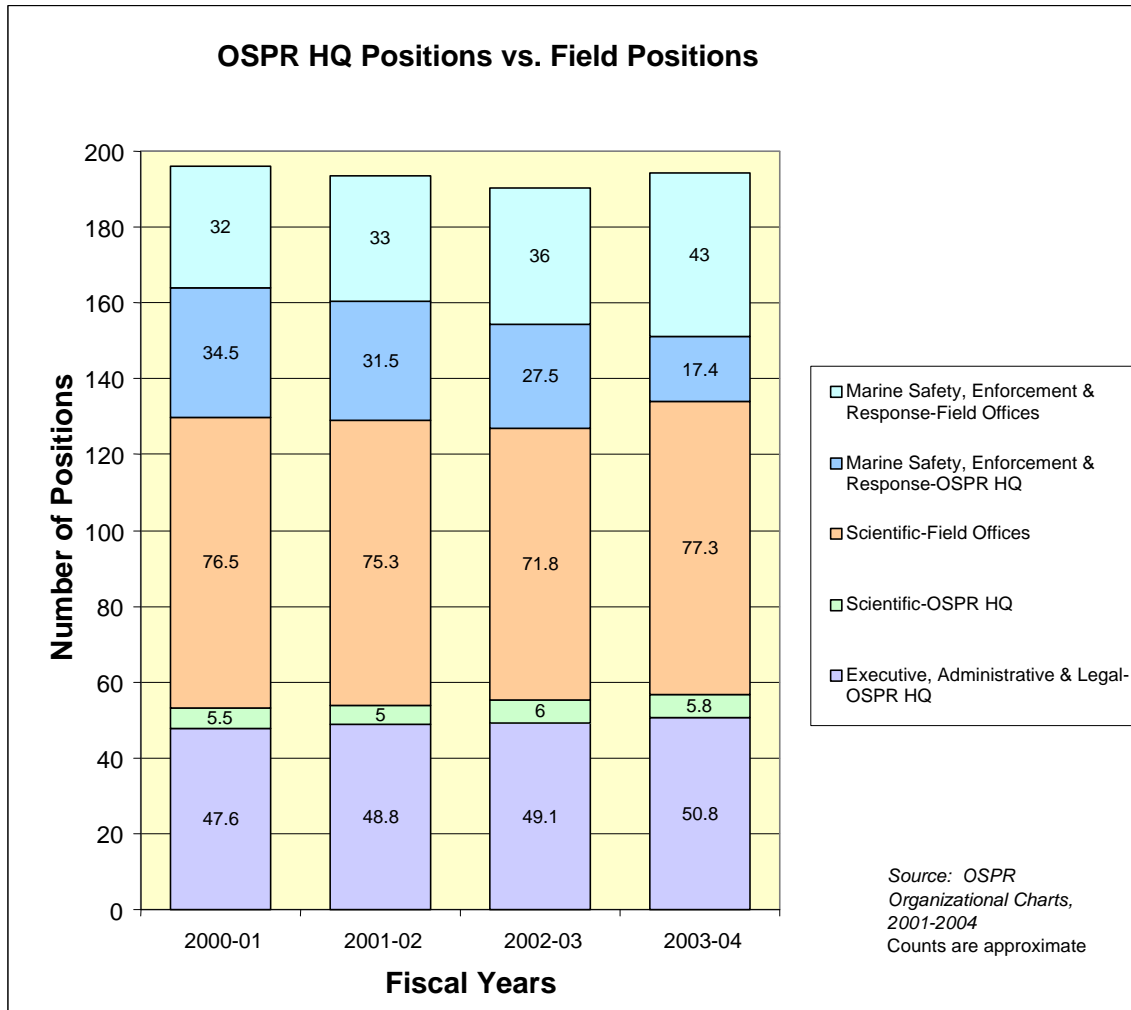
OSPR Positions by Branch	2000-01	2001-02	2002-03	2003-04
Executive	4	4	5	5
Legal	12	11.8	12.8	12.8
Scientific	82	80.3	77.8	83.1
Financial Programs & Administrative Services	31.6	33	31.3	33
Marine Safety, Enforcement & Response	66.5	64.5	63.5	60.4
Total authorized positions	196.1	193.6	190.4	194.3

OSPR branch personnel levels remained steady during the last four fiscal years. The largest shift of personnel resources occurred in at the end of 2003-04 with the closing of OSPR dispatch center, which reduced headquarters staffing by nine positions. This function was shifted to the Department of Parks and Recreation call center.

The overall proportion of field positions to headquarters positions grew from 55.3 percent in 2000-01 to 61.9 percent by the end of 2003-04.

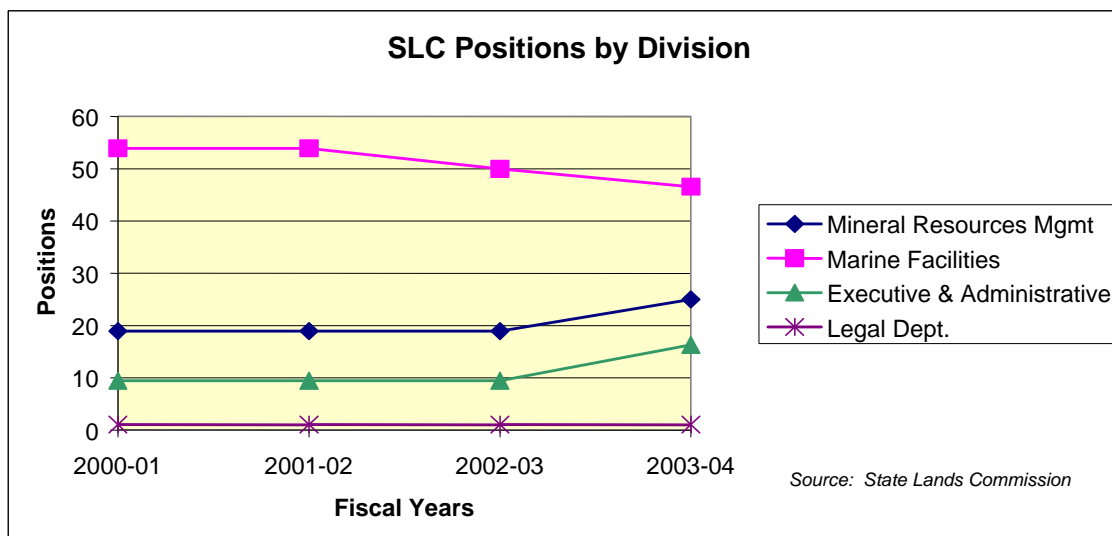
OSPR Headquarters Positions vs. Field Office Positions	2000-01	2001-02	2002-03	2003-04
Scientific - Field Offices	39.0%	38.9%	37.7%	39.8%
Marine Safety, Enforcement & Response - Field Offices	16.3%	17.0%	18.9%	22.1%
Subtotal Field Personnel	55.3%	55.9%	56.6%	61.9%
Executive, Administrative & Legal - OSPR Headquarters	24.3%	25.2%	25.8%	26.1%
Scientific - OSPR Headquarters	2.8%	2.6%	3.2%	3.0%
Marine Safety, Enforcement & Response - OSPR Headquarters	17.6%	16.3%	14.4%	9.0%
Subtotal Headquarters Personnel	44.7%	44.1%	43.4%	38.1%
Total authorized positions	100.0%	100.0%	100.0%	100.0%

Stakeholders are generally satisfied with the professionalism and expertise of OSPR field staff in the Scientific Branch and the Marine Safety, Enforcement and Response Branch. In particular, the performance of OSPR biologists was commended. However, stakeholders report that OSPR's involvement with routine oil industry and Oil Spill Response Organization (OSRO) drills has decreased. Stakeholders are concerned with this reduction; expressing that OSPR participation is an important part of the success of their response and readiness programs. OSPR field staff acknowledge that they no longer have sufficient time to attend industry and OSRO drills.

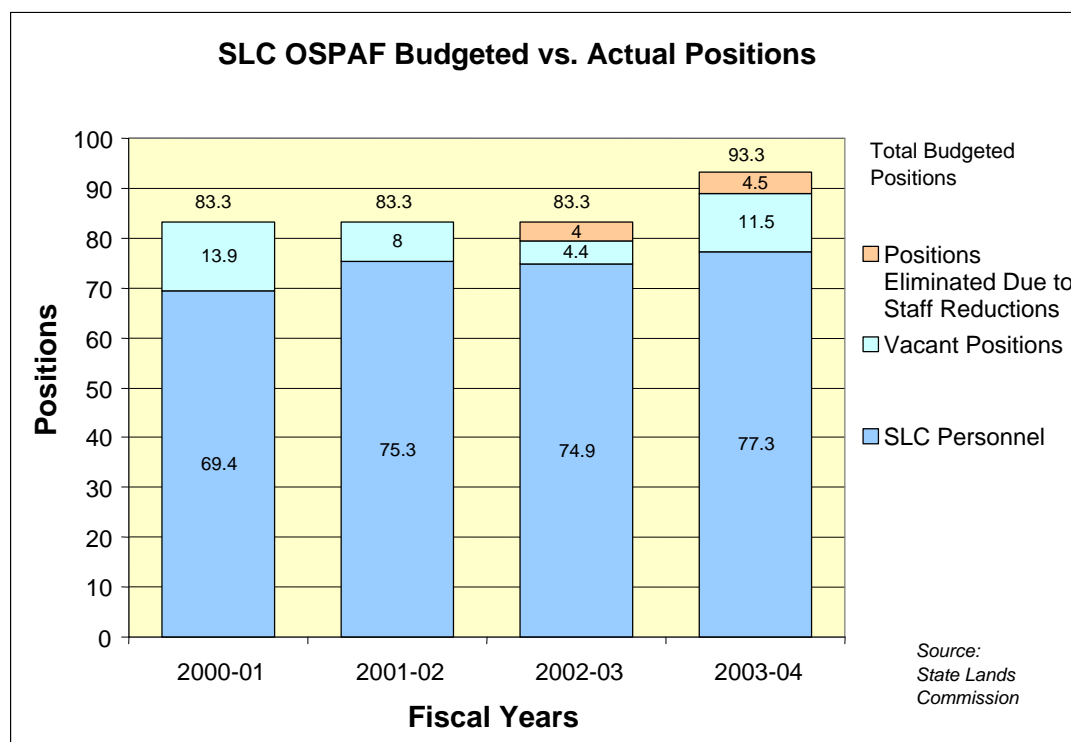


State Lands Commission Staffing Levels 2000-01 through 2003-04

The OSPAF funded positions within the SLC are primarily within the Mineral Resources Management Division (MRMD) and the Marine Facilities Division (MFD).



During the budget reductions of 2002-03 and 2003-04, the MFD lost 8.5 positions. In 2003-04 the Department of Finance approved a budget change proposal for the Oil Transfer and Transmission Emissions Reduction program that restored 1 position to the MFD. The MRMD gained 6 positions through a budget change proposal which approved funding for oil platform safety audits. That same year, the SLC reviewed its administrative workload and reallocated funding between the General Fund and special funds. The OSPAF received 6 administrative positions and 1 executive office position through the reallocation.



Except for the administrative and legal positions noted in the chart below, all of the SLC positions are field positions that work directly with the marine terminal operators and oil industry representatives. The SLC uses a risk-based approach that distributes the greatest number of people to activities that will provide the optimum spill prevention effectiveness.

State Lands Commission OSPAF Authorized Positions by Division	2000-01	2001-02	2002-03	2003-04
Mineral Resources Mgmt	18.9	18.9	18.9	24.9
Marine Facilities	54	54	50	46.5
Executive & Administrative	9.4	9.4	9.4	16.4
Legal Dept.	1	1	1	1
Total authorized positions	83.3	83.3	79.3	88.8

An example of this approach is the method that the SLC uses to prioritize its inspections of marine terminal oil transfers. SLC subscribes to Marine Exchange services and receives notification of vessels approaching California harbors each day. SLC staff review each vessel's record of spills and non-spill violations and assign it a priority rating based upon this record.

Each marine terminal also has a priority rating based upon its spill incidents and any non-spill violations discovered through inspections. The terminal and vessel ratings are combined to calculate the aggregate transfer priority. SLC staff prioritize their workload to ensure that all transfers with the greatest risk are covered.

Inventory Records of Equipment and Buildings are Not Current

DFG does not maintain a current equipment listing for OSPR assets. The most recent list was updated in June 2001. While OSPR maintains independent records of major equipment, such records cannot be relied on. These records are maintained on several, disparate databases, and have not been audited. Furthermore, equipment values are not captured on OSPR's reports.

The inability of DFG to provide a current OSPR equipment list, coupled with equipment and building transactions that appear irregular, bring into question DFG's internal controls and reporting for equipment and building expenditures, and hampers our ability to accurately portray OSPR's equipment or building expenditure patterns or display their assets.

Several entities have audited DFG and reported on the lack of appropriate recordkeeping and oversight of fixed assets:

- The 1999 fixed asset internal audit reported that DFG had not completed a property inventory since 1995, and that the general ledger had a variance to the subsidiary fixed asset records of over \$30 million.
- The 2001 internal audit repeated these findings, and noted that DFG had not properly inventoried its fixed assets, developed an inventory plan, established formal desk procedures, nor reconciled the property ledger to the CALSTARS general ledger.
- The State's Internal Control and State and Federal Compliance Audit Report, prepared by the Bureau of State Audits, reported that DFG has inadequate procedures for accounting and reporting of its real property. The review also disclosed that the DFG accounting unit reported incorrect fixed asset information to the State Controller's Office.
- The U.S. Fish and Wildlife Service, Office of the Inspector General's (OIG) internal audit of DFG (in draft) indicated that the OIG had a concern with DFG fixed assets.

In their responses to these audits, DFG has asserted that corrective actions were being undertaken. In 1999, DFG management indicated that the Fiscal and Administrative Services Branch, with cooperation from representative regional and division staff would develop and implement a new comprehensive three-year Inventory Development Plan. They also indicated that formal procedures for maintaining an accurate up-to-date fixed asset inventory would be developed and implemented. Additional corrective actions more recently asserted by DFG management include: the Business Services Office conducting inventories of DFG assets, updating inventory records, and implementing procedures to ensure accurate fixed asset record keeping. To date, no corrective actions have been instituted.

The following details available information regarding OSPR's equipment expenditures. We note that the information obtained from DFG's Equipment Listing does not reconcile to the CALSTARS End of Year Equipment Additions Report (Q5).

Fiscal Years	DFG Business Services Equipment List	Q5 Equipment Additions
1997-98	1,181,480	267,323
1998-99	887,221	1,372,726
1999-00	623,076	544,913
2000-01	435,701	(38,503)
2001-02	Unavailable	572,069
2002-03	Unavailable	430,203
2003-04	Unavailable	363,556

The CALSTARS Year End G05 Building and Equipment Report illustrates a pattern of reversing transactions, see Appendix B. The report indicates that no building expenditures were made in 1999-00, 2002-03, and 2003-04. However, 2000-01 shows a negative \$2.9 million in building additions. This same amount was reversed the following year. Equipment expenditures also displayed a pattern of negative entries reversed in later periods.

Despite multiple queries, the DFG accounting staff would not provide explanations for these entries. We are concerned with this practice and note that such reversing entries may be more frequently used; yet remain undetected unless the transactions cross fiscal years.

Recommendation

DFG should compile and reconcile their fixed asset inventory and develop procedures to ensure appropriate recording of fixed asset transactions. After development of procedures and compilation of the inventory, the DFG's internal auditors should audit and verify the documentation and verify that the procedures will ensure ongoing and appropriate asset management and recordkeeping.

CONTINGENCY PLANS

The Office of Spill Prevention and Response (OSPR) is required to provide contingency planning requirements for vessels, pipelines terminals, and facilities. To meet these requirements owners submit contingency plans (Cplans) to OSPR. Cplans must provide specific details on response actions to be taken in the event of an oil spill and provide for appropriate financial or contractual arrangements for all necessary equipment and services for the response, containment, and cleanup of a reasonable worst-case oil spill scenario.

In addition to these specific plans, there are six Area Contingency Plans that cover the coast of California. Additionally, all tank vessels have a federally required plan, the Vessel Response Plan. Beginning in late 2005, nontank vessels will also be required to have a federal Vessel Response Plan. Some owners submit to OSPR the federal plans together with an appendix detailing specific additional information required by California.

There are numerous federal facilities in California that are not under the jurisdiction of OSPR. However, federal regulations require these facilities to prepare plans, and these requirements are as stringent as the state requirements.

Tank vessels regulations state, "...Each plan must provide for the on-water containment and recovery of all potential spills from the vessel that could reasonably be expected to impact the marine waters of California. Additionally, each plan must also demonstrate response capability sufficient to address potential spills in each Geographic Region through which the vessel may transit. To determine the amount of containment and recovery capability that must be available, each vessel must calculate a Response Planning Volume representing a reasonable worst-case spill. A reasonable worst case spill is calculated as 25 percent of the vessel's total cargo capacity." In some cases, this could be hundreds of thousands of gallons.

One of the specific requirements of this study is to improve the efficiency and effectiveness of the State's oil spill prevention, response, preparedness program, including, but not limited to, measures to modify existing contingency plan requirements. In this section we discuss several recommendations to improve the program by modifying the processing of the plans and the methods of submitting data to OSPR.

Current Number of Plans

The following table indicates the number of plans on file by category. The 1,992 plans currently on file represent a significant increase over the 276 plans on file in 1995. This increase is a significant program accomplishment for OSPR.

Number of Contingency Plans on File

Vessel Plans	2000-01	2001-02	2002-03	2003-04	2004-05
Tank	238	240	290	344	376
Nontank	759	868	973	1152	1250
	997	1108	1263	1496	1626
Facilities					
Exempt	176	181	182	185	186
Lease	7	8	7	7	7
Offshore	6	7	8	8	7
SMFF	47	41	45	45	49
Facility	64	58	73	75	72
OSRO	11	11	11	14	14
Platform	3	3	3	3	3
Pipeline	21	23	22	24	24
Withdrawn			3	4	4
	335	332	354	365	366
Total	1332	1440	1617	1861	1992

Note that the 1,626 vessel plans, reported in 2004-05, represent over 6,000 vessels because some plans contain multiple vessels. While most of the content of these plans is constant regardless of the number of vessels, some information is required for each vessel. Thus, the workload associated with processing plan revisions for over 6,000 vessels is greater than the workload that 1,626 vessel plans might otherwise indicate.

Description of Current Manual Plan Process

The development and processing of Cplans has leveled off after a period of steady growth. OSPR receives few new core plans. Core plans are large documents that average more than 200 pages of documentation. OSPR staff estimate that 80 to 90 percent of the contingency planning workload involves changes to existing Cplans. The average number of plan revisions from January through August 2004 averaged 557 per month.

Plan revisions are received daily in the form of mailed documents or CD ROMs. Revisions might include the addition of a vessel to an existing plan, an update of critical information such as the Oil Spill Response Organization, a vessel name change, or a change of vessel owner.

Currently, an analyst enters change information into a database and ensures that required components are included in the submitted information. The analyst then attaches a route slip to the submitted material indicating that it contains all required data. This material is then forwarded to an Oil Spill Prevention Specialist for further review and insertion into manual files.

In analyzing this process with OSPR staff, we determined that a general analyst could work with staff, receive the information, update the database, verify all the required material was included, and file the documents. This change would allow technical staff, specifically the Oil Spill Prevention Specialists, to focus on critical fieldwork. We estimate that this would allow several staff to perform drills, outreach, attend Harbor Safety Committee Meetings, area contingency planning committee meetings, and monitor off-shore lightering operations.

Recommendation

Modify the plan review process to reduce the number of Oil Spill Prevention Specialists involved with the recording and filing of minor changes to existing plans.

This recommendation is consistent with the Marine Safety Unit's (MSU) 2003 Business Plan, which states, "...the MSU will continue to evolve away from duties that do not pertain to prevention or maritime safety." This is also consistent with recommendations in a July 2003 report by the Pacific States/British Columbia Oil Spill Task Force: to "Reduce agency resources spent on plan review so that more time can be invested in drills, inspections, Oil Spill Response Organization certifications, etc..."

Improve Plan Submission Through Online Technology

The State of Texas has a system that allows submitters of Cplans to provide changes online via the Internet. This online database allows entry and update of Cplan information, including a minimum number of critical elements. Examples of these data elements include owner/operator information, Coast Guard certificates of inspection, vessel description, qualified individual and alternate who can implement the Cplan, areas of operation, etc.

The use of technology in California's system would result in significant savings to OSPR and the industry. It would also vastly improve the submittal, data processing, storage, and access to contingency plans.

In California, most Cplans are prepared by consultants hired to compile, submit and revise Cplans on behalf of owners. There are approximately 30 consultants actively submitting Cplans and revisions. Rather than submitting hard copy documents via mail, online access would allow such consultants to enter and update Cplan information directly. With this relatively low number of plan submitters, providing online access and security provisions would not be a major OSPR workload increase.

Recommendation

Improve the efficiency of the submittal, processing, storage and access to Cplans by developing an online system that can be utilized by plan submitters.

Size of Cplans

Currently, each Cplan must address a multitude of requirements developed by OSPR. These requirements result in the creation and submittal of a document package that averages over 200 pages. However, in the event of a spill, less than 10 pages of information contained in the plan are typically used.

The Alaska Cplan model for nontank vessels requires only 7 pages of essential information to be submitted. The remainder of the information, similar to that required by OSPR, is a standard document to which each submitter agrees.

In the event of a spill, a smaller plan that contains information essential to the response is more likely to be used. A concise document would be more valuable than an unwieldy document containing information useless to the situation.

Recommendation

OSPR should streamline the submittal process and storage burden by developing a standard Cplan Agreement that contains requirements that all submitters must agree to, and a condensed submittal form that contains only unique and essential information. Reducing the size of Cplan submittals would also reduce OSPR staff workload.

Results of User Survey

We requested input from plan submitters, representing vessels and facilities, on their ideas to improve the contingency planning process. The most common themes from the stakeholders mentioned the need to automate the process by providing an Internet based Cplan submittal/revision system and the duplication of effort that exists between federal and state requirements. The following are some of the comments provided:

- Replace the paper document with an online submittal/update process similar to the system used by the State of Texas.
- Plan holders should be given accessibility to OSPR plan information, through the use of interactive web sites, where they could submit updates to certain plan information and obtain approval information.
- Eliminate unnecessary contents.
- OSPR required state plan is redundant and represents a duplication of effort because there are no comprehensive differences between the federal and state plans, with the federal plan encompassing the state plan.
- By 2005, the Cplan process will be redundant, since nontank vessels will be required to submit federal plans.
- The State has been hurt economically by the redundancies between state and federal inspections and plans. A number of shipping companies will no longer ship to California because of the multiple boardings that occur by the United States Coastal Guard (USCG), State Lands Commission, and OSPR.

- The Cplans are not useful except for the few pages needed for specific information.
- OSPR Cplan amendment process is very slow. It usually takes two or three phone calls to receive a confirmation of receipt. In contrast, the process used by the USCG is very efficient, with timely notification received by fax.
- OSPR should utilize e-mail for dispatch of plan approval letters.
- It is often difficult to reach plan reviewers. Dedicated employees who concentrate only on plan review would allow for a quicker turn-around.
- The value of certain information required in the plan is questionable. Specifically, stakeholders questioned the value of submitting diagrams including general arrangement, tank capacity plan, cargo oil piping, and fuel oil piping relative to spill prevention and response.

Monitoring Whether Plans Exist

One key measure of program effectiveness is to determine whether all vessels entering state waters have an approved contingency plan. OSPR has a monitoring program to determine this. Each day, OSPR receives a report from the major ports in California listing all vessels that will be entering their ports in the next several days. OSPR staff use the Cplan database to verify that these vessels have an approved plan and a current COFR.

If the vessel is out of compliance, a call is made to the respective port agent to notify them of the issue. Such issues must be corrected prior to the vessel's port entry. If the problem is not corrected, OSPR field office staff are notified to board the vessel, and in some cases, a fine may be levied.

Additional discussion about Cplans is in the Stakeholder Identified Issues section of this report.

OIL SPILL RESPONSE

The Office of Spill Prevention and Response (OSPR) is responsible for coordinating and leading the State's response to a spill, including:

- Coordinate response efforts through the Incident Command System.
- Oversee Responsible Party's (RP) efforts to contain and clean up spilled product, or take over these activities in the absence of a readily identifiable RP, or an RP refusing to take action.
- Coordinate oiled animal rescue, recovery, and release.
- Investigate incidents and identify RPs.
- Assess Natural Resources Damage.
- Negotiate and settle spill volume with RP.
- Act as State's representative in pursuing punitive, civil, and criminal settlements.

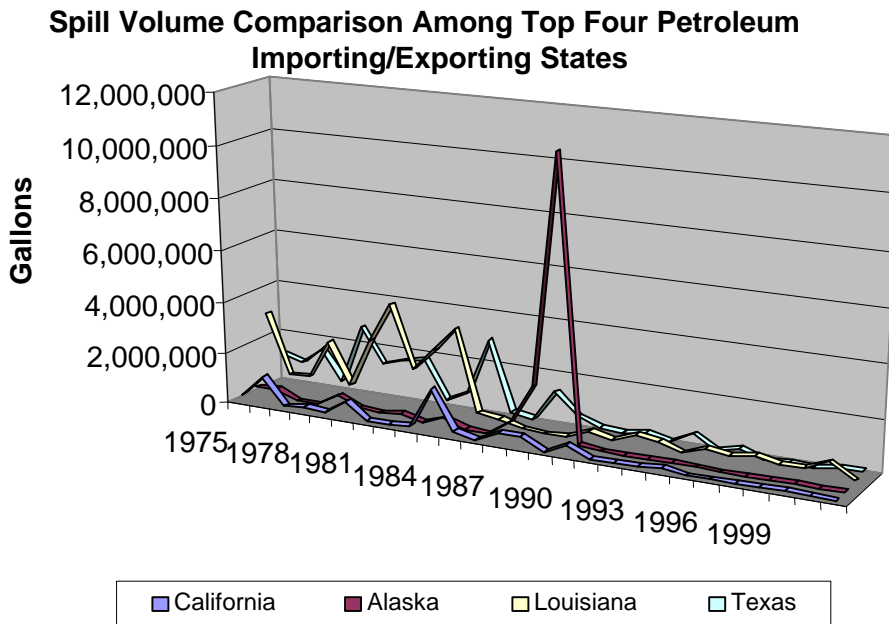
Spill History in California

We evaluated oil spill history (incident and volume) data provided by both the United States Coast Guard (USCG) and OSPR. While the USCG incident data encompasses spill history in both California and federal waters, we feel that this data is more accurate than OSPR data. Graphs depicting responses to oil spills are based on data provided by OSPR.

Trend Analysis: Coast Guard Data

The graph¹ below depicts the trend in spill volume in the four states, which import or export the highest amount of crude oil and petroleum products in the United States. The large spike in the chart represents the spill volume of the Exxon Valdez incident in 1989.

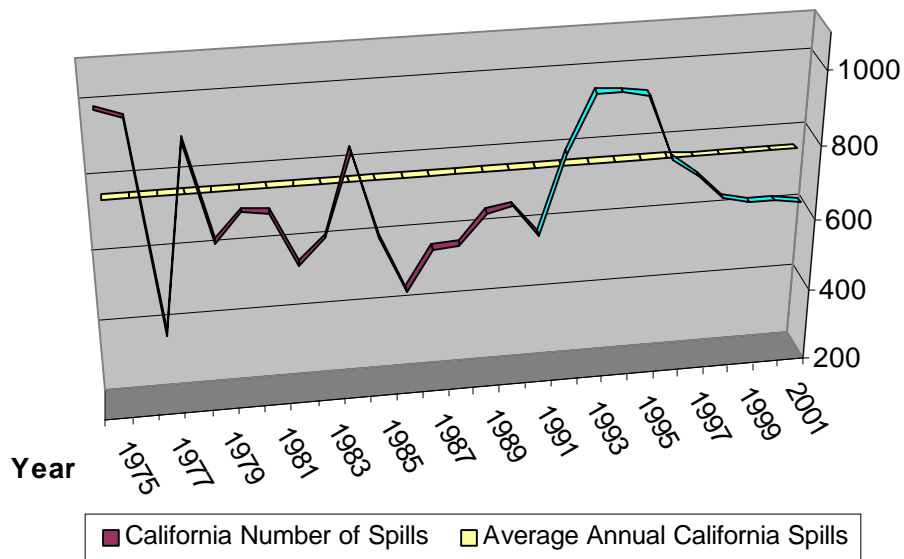
¹ Data for the first three graphs is from the Coast Guard "Spill Compendium Annual Data" for 1975 through 2001. Data includes spills outside of OSPR jurisdiction, which would include spills outside of State waters, or under one barrel (42 gallons) in volume.



In response to the Exxon Valdez, the federal government enacted the Oil Pollution Act of 1990 (OPA 90), which required fundamental changes in safety procedures, incident planning, and design of equipment related to the transport of oil products. Following the passage of OPA 90, there is a clear and significant change in the volume of oil spilled into the marine environment in each of the four states. While Texas and Louisiana continue to have a higher spill volume, these two states are the largest refiners of crude oil. The spill trends for California and Alaska, both having suffered large tanker related spills in the two years prior to the passage of OPA 90, reduce below the 2 million gallon scale of this graph. This is likely a result of the regulatory environment following the large spills. In California, the reduction of spill volume can be attributed both to the impacts of OPA 90 and the Lempert-Keene Seastrand Oil Spill Prevention and Response Act in 1990.

The following graph depicts the trend in number of California spills. The trend line is demarcated between 1990 and 1991 to depict the creation of OSPR. The yellow line in the graph depicts the annual average number of spills in California waters, calculated using the dataset. The formation of OSPR combined with OPA 90 resulted in the decrease in the number of spills in California waters in 1991. Following this decline, the number of spills increased through 1994. The number of spills then decreased steadily through 2001, plateauing at a rate below the historical average for the State since 1975.

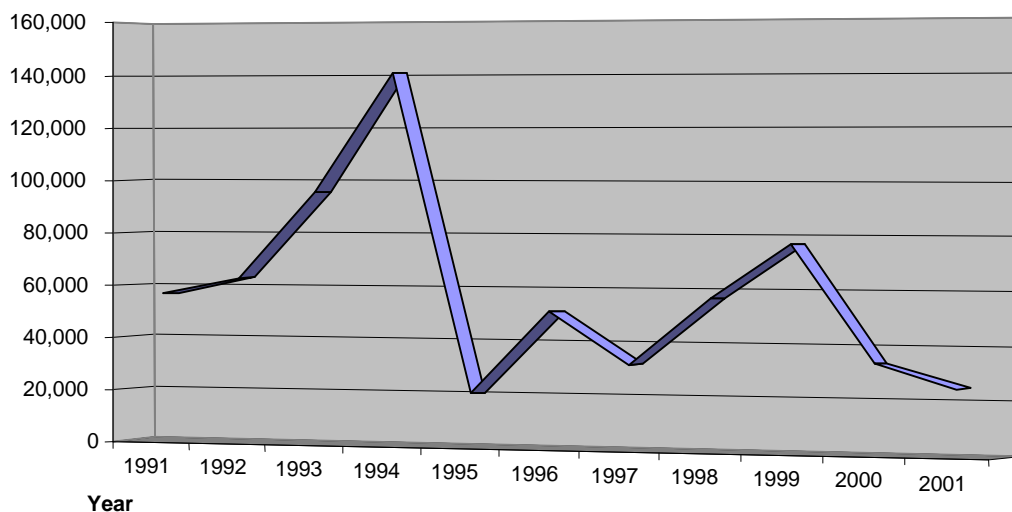
California Spill History



The upward trend in reported spills after the inception of OSPR is likely the result of increased enforcement by OSPR wardens and staff in place to document the spills. Because an increase in OSPR documented spills would impact the USCG database used as a source for these graphs, we would expect to see a spike in spills. The subsequent downward trend could indicate successful enforcement and patrols by OSPR and the USCG.

The next graph shows that overall spill volume in California has decreased from 1991 through 2001. While the majority of spills are small volume, large spills cause spikes in the trend line. Because this data includes some spills that occurred outside State waters, we surmise that federal regulations have had an impact on the occurrence and volume of spills.

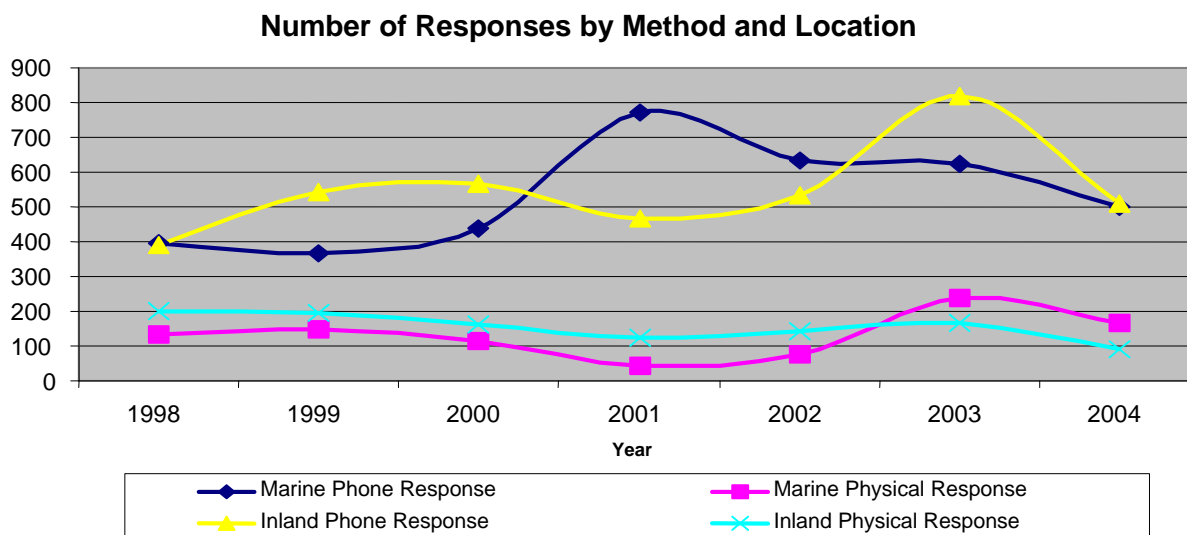
California Spill Volume in Gallons



Trend Analysis: OSPR Data

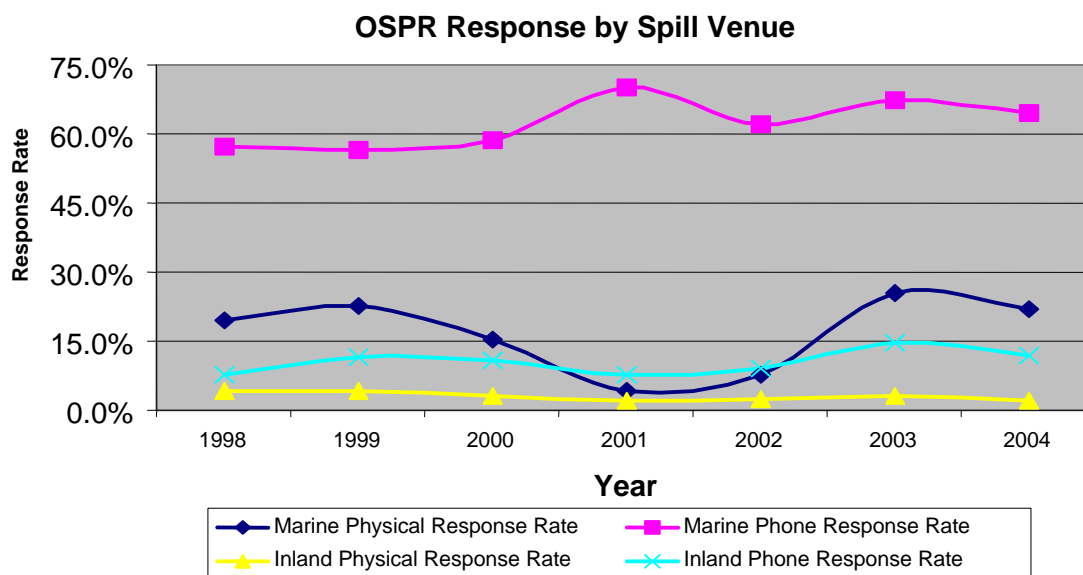
The data contained in this section is from OSPR databases. The Stakeholder Identified Issues section of this report questions the reliability of the OSPR maintained data. Additionally, it is possible that some responses and percentages are over reported due to the possible inclusion of non-petroleum responses in this data set.

The next graph depicts OSPR spill response activity from 1998 through October 8, 2004.



The overall numbers of inland and marine spills that result in an OSPR phone response fluctuate slightly year to year, but are fairly constant. Physical responses to inland spills show a general downward trend from 200 in 1998 to 100 in 2004. Physical responses to marine spills began to decline in 1999, hitting a low of 45 in 2001. The trend was reversed in 2002, and amounted to 237 responses in 2003. The low marine response rate in 2001 coincided with a 47 percent increase in total reported marine spills in 2001. When queried about the inverse relationship between marine spills reported and OSPR's physical response, OSPR representatives suggested that it could be a result of incorrect data. Our analysis indicates that OSPR resources were shifted from marine physical response to marine phone response.

The graph below portrays the type and rate of response to spills reported to OSPR by the Office of Emergency Services. Each data point in the graph is a response rate calculated by dividing the number of a particular response (physical or telephone) by the total number of reports for the year. This calculation provides a percentage that portrays the proportion of total reports associated with some form of response activity.



Phone response rates for marine spills exceed all other response methods, in some instances by several orders of magnitude. Of interest is the inverse relationship between marine phone response and marine physical response in 2001 and 2002. This trend again seems to indicate a shifting of resources resulting in lower than usual physical response rates. Additionally, the inland physical response rate is nearly flat, fluctuating between 2 percent and 4 percent. The inland telephone response rate is higher, but doesn't approach 15 percent until 2003.

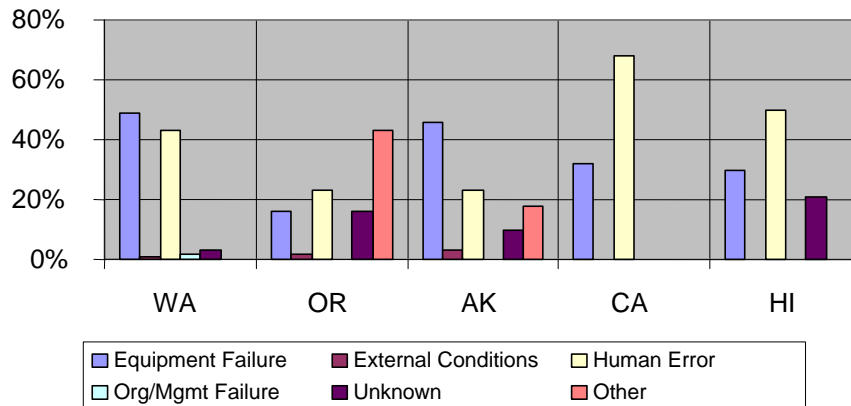
Pacific States-British Columbia Oil Spill Task Force

The Pacific States/British Columbia Oil Spill Task Force (Task Force) was authorized by a Memorandum of Cooperation signed in 1989 by the Governors of Alaska, Washington, Oregon, and California and the Premier of British Columbia. The Nestucca and Exxon Valdez oil spills highlighted their common concerns regarding oil spill risks and the need for cooperation across shared borders.

Each of the states/provinces participating in the Task Force provides data on historical trends in spills, volume, and causal factors for compilation into the Task Force Annual Report². California reported only two causal factors for all oil spills within state boundaries for 2003, "human error" and "equipment failure." In comparison, Hawaii, which became a member of the Task Force in 2001, provides causal data on spills in three categories. The State of Washington exemplifies a state using causal factors to analyze spill trends and investigate incidents.

² Cameron, Jean. Page 52. Pacific States-British Columbia Oil Spill Task Force, 2003 Annual Report.

Spills by Causal Factor



Recommendation

OSPR should work with the State Lands Commission, Marine Facilities Division (MFD) to incorporate the MFD's database into OSPR operations. The MFD has a comprehensive database, which would allow California to accurately track spills from a statewide perspective and allow analysis of spill trends for causal factors. The SLC database currently uses a system, which allows reports to be entered detailing actions leading up to a marine oil terminal spill. Those actions are then classified by the system into causal factors, which could be reported to the Task Force. Additionally, OSPR would have an opportunity to analyze causal trends in the State and allocate resources to address those issues.

Oil Spill Containment Strategies

OSPR's goal when responding to an oil spill is to minimize negative impacts to the environment. Each spill is analyzed to determine the optimal mix of four response strategies, each with its own unique advantages and disadvantages. The strategies aim to limit the size and amount of the spill, quickly and effectively remove or disperse the oil, and prevent or limit exposure of shores and wildlife.

Oil Response Strategy	Advantages	Disadvantages	When Used
Monitor Only - No Response	<ul style="list-style-type: none"> • Lowest manpower and equipment needs • Possible natural oil dispersion due to weather and sea conditions 	<ul style="list-style-type: none"> • Possible increased environmental damages due to length of time oil remains on water surface and/or delivery of oil to sensitive sites 	<ul style="list-style-type: none"> • Weather conditions preclude other means • Water currents moving oil away from coast/sensitive sites
Mechanical Recovery (Booms, Skimmers, Sorbents)	<ul style="list-style-type: none"> • Well developed technology • Most used strategy • Usable for any type of oil on surface 	<ul style="list-style-type: none"> • Labor intensive • Limited effectiveness, usually less than 50% of total spill • Limited favorable conditions • Costs to store/dispose recovered oil • Response time-lag 	<ul style="list-style-type: none"> • Good weather • Calm seas • Manpower and equipment availability
In-Situ Burning	<ul style="list-style-type: none"> • Possible high volume removal • Highly effective removal • Usable for many types of oil • Minimal/temporary environmental impact • No costs to store/dispose recovered oil 	<ul style="list-style-type: none"> • Labor intensive • Heavy seas decrease effectiveness • Clean-air regulations impose hurdles • Time-lag for response 	<ul style="list-style-type: none"> • Good weather • Calm seas • Manpower and equipment availability
Chemical Dispersants, Surface Washing Agents, Gelling Agents, Biological Agents	<ul style="list-style-type: none"> • Possible high volume removal • Highly effective dispersal from surface to water column/sea bottom • Effective delivery over large area • Most effective response in bad weather/rough seas • Can promote bio-degradation of oil 	<ul style="list-style-type: none"> • Degraded effectiveness in high-wind situations • Not effective on some petroleum products • Highly sensitive to deployment time delay • May cause short-term toxicity to water column 	<ul style="list-style-type: none"> • Immediate reaction to spill • Low to moderate wind conditions are optimal • Legal availability of dispersal option • Manpower and equipment availability

These strategies are not new, but they have improved since OSPR's inception. Satellite imaging of oil spills (including infrared analysis that enables nighttime monitoring) and newly enhanced bay condition reporting systems (funded by OSPR's Harbor Safety Committee) provides unprecedented abilities to gauge, forecast, and monitor spills, and to plan, deploy, and monitor responses. Successful use of mechanical recovery, in-situ burning, and chemical dispersement strategies depend on the timely availability of trained manpower, equipment and supplies, and dedicated delivery and deployment mechanisms such as aircraft and vessels.

Mechanical recovery and in-situ burning have experienced incremental enhancements to systems, techniques, and materials, but the ability to more effectively use these strategies has resulted from OSPR's implementation of Cplans, response training and drills, and effective response command systems.

Historically, chemical dispersant use required case-by-case permission to deploy. Because these agents require immediate use after a spill, the approval process often negated their use. Currently, vessels and facilities in Federal waters obtain pre-approval for dispersant use. OSPR is seeking similar pre-approval abilities for California waters.

In response to Governor Schwarzenegger's directive to develop a plan of action for ocean and coastal management, the Secretary for Resources and the Secretary for Environmental Protection submitted an action plan in September 2004. This action plan *Protecting Our Ocean: California Action Strategy*, includes the recommendation of launching the Coastal Currents Monitoring System (Ocean Observations Systems). The administration has recently approved the final funding of a \$21 million investment to establish a statewide coastal currents monitoring system that will provide real-time information to assist with fisheries management, oil spill movement, and even search and rescue operations.

Evaluation of Spill Responses

OSPR does not have a formal after action/incident reporting and evaluation process.

Recommendation

An after action/incident reporting and evaluation system should be implemented to better assess the successes and failures of each OSPR response activity. This process is important for the ongoing evaluation and improvement of response activities. In addition, OSPR should consider placing the findings of these reports on the OSPR public website.

OIL SPILL PREVENTION AND READINESS

Important components of Office of Spill Prevention and Response's (OSPR) mission are oil spill prevention and readiness. OSPR seeks to prevent discharges of oil into the marine environment using the best achievable technology and marine practices, while also ensuring that the oil industry and federal, state, and local agencies are ready to respond to spills. Best Achievable Protection is defined by the Act as, "highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable."

In this section we examine OSPR's prevention and readiness activities, and end with an examination of the economic impact of an oil spill on Southern California beaches.

OSPR's major prevention activities include:

- Comprehensive program to ensure that marine facilities, and tank and nontank vessels that carry petroleum product as cargo have contingency plans in the event of an oil spill.
- Initiation of an Oil Spill Response Organization (OSRO) rating system.
- Working in conjunction with the United States Coast Guard (USCG) to evaluate and update statewide vessel traffic routing and transit safety measures.
- Funding a Vessel Traffic Service System for Long Beach and Los Angeles Harbors, and an Automated Information System in San Francisco Harbor.
- Creation of Harbor Safety Committees at California's five busiest ports.

Major Readiness activities include:

- Oil Spill Response Training
- Drills and Exercises Program and the Spill of National Significance Drill
- Establishment of the Oiled Wildlife Care Network
- Certificate of Financial Responsibility

Contingency Plans

OSPR activities related to contingency plans are discussed in the Contingency Plans section of this report.

OSRO Rating System

Under the federal Oil Pollution Act of 1990 (OPA 90) regulations, contingency plan holders must either provide extensive lists of response equipment and capabilities that they can use to respond to oil spills, or list an OSRO that has received a rating from the USCG. OSROs voluntarily submit response capability information to the USCG for evaluation and rating. However, the USCG does not verify the information or require that OSROs undergo drills or exercises to test their capabilities.

California requires that all contingency plan holders contract with an OSRO that has been rated by OSPR. To receive a rating, OSROs not only submit much of the same information it would provide to the USCG, but also pass announced and unannounced OSPR drills.

OSPR's method of rating OSROs had problems when first implemented. Upon early testing of the program, an OSRO was called upon to perform in an unannounced drill. The OSRO refused to fully participate and failed to perform adequately. OSPR denied the OSRO eligibility for use as a contracted agent for spill response throughout the state. The OSRO sued OSPR and the OSPR acting administrator. When OSPR prevailed, the OSRO rating program found firm legal footing on which to proceed.³

OSPR's rating program represents an innovative, relatively low cost, and effective prevention strategy. It also demonstrates OSPR's programmatic commitment to protect California's marine waters.

Training

The California Oil Spill Readiness Report 2004 states that "minimal amounts of OSPR training were conducted in the years leading up to 2002." Further, that "The OSPR Training budget in 2001-02 was \$308,469. In 2002-03 this fund was cut back to \$50,000 because the money was not being spent. With limits and constraints on travel, overtime and training, \$50,000 seems to be enough."⁴

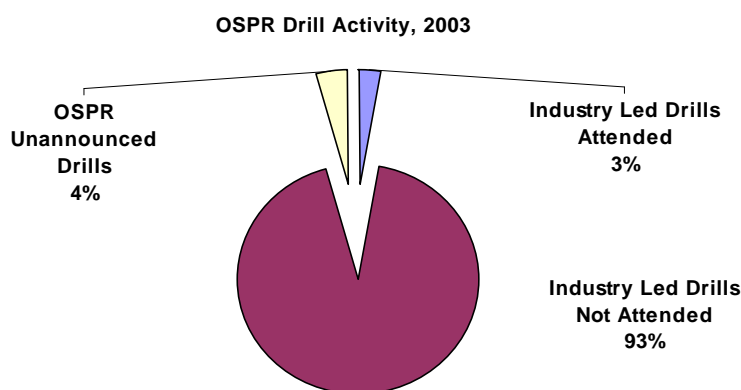
³ Goodyear, Charlie. *Ouster of Oil Spill Firm Upheld, Judge says state panel can cancel license*. San Francisco Chronicle, December 7, 2000, page A-20. <http://sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2000/12/07/mnc136545.dtl>

⁴ California Oil Spill Readiness Report 2004. Office of Spill Prevention and Response. Marine Safety Branch, Readiness Unit. Page 1-2.

Other training deficiencies identified in the 2004 report include a lack of exercises for sizeable spill events. Additionally, the Marine Safety Branch in particular was cited as not having acted on spill related “lessons learned.” Some issues arising from the Spill of National Significance (SONS) Exercise, conducted in April 2004, included a lack of staffing in field offices. This lack of staffing quickly became apparent during the exercise with the realization that even with all staff on hand, a command center could not be staffed past standard hours. In the event of a real spill, the incident command staff would have been overtaxed and unable to meet realistic staffing requirements for the operation of a 24-hour a day incident command.

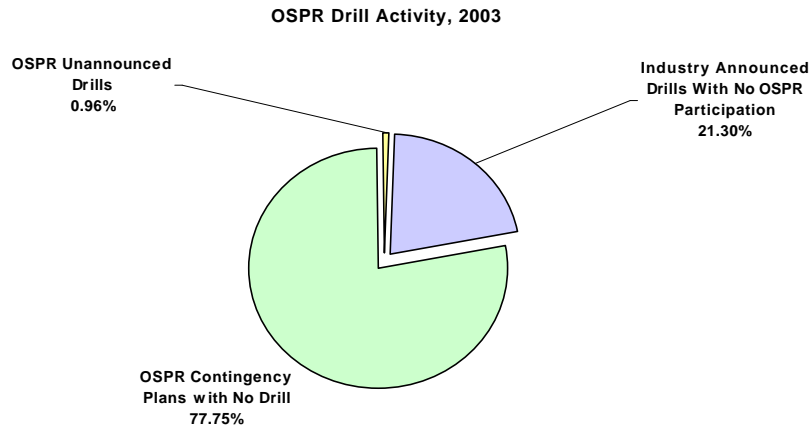
Drills and Exercises

The chart below shows that OSPR staff attended only 12 of 401 industry announced drills in 2003, and initiated 18 unannounced drills. In all, OSPR staff were present at 30 of 419 drills in 2003.



OSPR attendance at only 3 percent of the drills announced by industry stakeholders negatively impacts the level of training and preparedness for oil spills. Due to the absence of OSPR staff at drills, stakeholders may perceive that these drills are of little significance to OSPR. However, the stakeholder interview process revealed that external stakeholders attach great importance to drills, commenting that drills assist in preventing spills and in minimizing spills once they occur. The stakeholders see much value in greater OSPR involvement in drills.

In 2003 OSPR had approximately 1,861 contingency plans on file, representing all vessel types, facilities, and withdrawn plans. Of these plans, 1,452 (78 percent) did not conduct a drill or receive drill credit. OSPR staff conducted unannounced drills with 18 contingency plan holders, about 1 percent of their total contingency plans. OSPR issued drill credits to 401 contingency plan holders in 2003. This segment of plan holders approximates 21 percent of total plan holders. Additionally, OSPR staff attended 12 of 401 industry led drill activities (approximately 3 percent) in 2003.



Spill of National Significance Exercise

The Spill of National Significance Exercise (SONS) was conducted in April 2004. This drill, the fourth of its kind, was designed to incorporate current events and present scenarios to test the abilities of spill responders in a real world environment. The exercise was evaluated from various perspectives and an After Action Report was published in September 2004.

The After Action Report detailed the particular areas of practical testing, and made recommendations for identified deficiencies across participating agencies. Recommendations made in the report typically identify the particular position titles for which a recommendation is being made (such as National Incident Command [NIC] or the Regional Incident Command [RIC]), or the implementing agencies are named as the “responsible organization” for each recommendation. In these instances, OSPR, and other state agencies are classified as the “state.”

Of the many recommendations and observations through the course of the exercise, three are tied to OSPR’s role in the exercise. The first observation regarded a perceived lack of state staffing on the NIC staff. “During the exercise, briefings at the NIC were mostly presented by USCG personnel and there was no state representation on the night shift (possibly because of an exercise artificiality due to budget constraints).”⁵

The second observation regarded the Incident Command Situation (ICS). “Basic understanding of the ICS management process by the players at all levels was inadequate. Over the years, the USCG, along with other response organizations, has lost a lot of their ICS expertise. The general impression was that ICS training levels are sub marginal across most of the organizations present.”⁶

The third observation highlighted the need for additional training. “Oil spill response personnel did not appear to have even a basic knowledge of the equipment required to support salvage or oil cleanup operations. Because of mission-focus changes, there is a continual need to replenish expertise in core missions. There was a shortage of personnel with experience to fill key positions. Many middle-level spill management staff had never worked a large spill and some had never been involved with an exercise. As a result, some issues and complex processes unique to spill response were not effectively addressed.”⁷

⁵ California SONS 2004, After Action Report. September 10, 2004. Page 35.

⁶ California SONS 2004, After Action Report. September 10, 2004. Page 45.

⁷ California SONS 2004, After Action Report. September 10, 2004. Page 46.

Recommendations

The SONS Drill revealed that OSPR lacked training and familiarity with basic response methods, equipment, and the Incident Command System. These deficiencies should be remedied before another major spill occurs in California waters. OSPR should increase its emphasis on training, with a focus on USCG and OSPR roles in spill management. OSPR should also modify the training budget and obtain management approval to allow OSPR staff to travel to major spills within the United States.

The SONS 2004 After Action Report also recommended the following:

- “The training and exercise program should go beyond individual, class-room training and be regularly exercised by the teams. ICS training and evaluation needs to be standardized (training, certification, and regular use) and should be a recurring program. A standard measure of success or evaluations should be developed.”⁸
- “More resources should be put into developing the oil spill and hazmat response expertise of all response organizations.”⁹

Oiled Wildlife Care Network

The Oiled Wildlife Care Network (OWCN) is an internationally recognized animal rehabilitation and care system, jointly operated by OSPR and the University of California Davis. The network was designed to care for the variety of animal casualties associated with an oil spill in marine waters. The network consists of 27 private, nonprofit, academic, research, and governmental agencies operating facilities located along the California coastline. The activities of these organizations are extremely important in countering the impacts of an oil spill in California waters.

Operation of the OWCN and its facilities are partially supported through an annual appropriation of \$1.3 million from the Trust Fund. In addition to financial support, OSPR manages three OWCN facilities, the Marine Wildlife Veterinary Care and Research Center in Santa Cruz, the San Francisco Wildlife Care and Education Center, and the Los Angeles Oiled Bird and Education Center. These multi-use facilities, which are located near coastal urban areas, act as public education centers. When not responding directly to casualties of an oil spill, the majority of these facilities are engaged in other activities, including marine environment research and education.

The impacts of an oil spill can have devastating consequences on many of California’s marine endangered species, such as the Brown Pelican and California Sea Otter. These populations are ill equipped to recover from the casualties of an oil spill. Some wildlife populations in the Prince William Sound have yet to show signs of recovery from the Exxon Valdez spill, which occurred more than 15 years ago. The OWCN exemplifies the dedication and conviction that OSPR focuses on protecting California’s wildlife and marine environments.

⁸ California SONS 2004, After Action Report. September 10, 2004. Page 45.

⁹ California SONS 2004, After Action Report. September 10, 2004. Page 46.

Certificate of Financial Responsibility

California's Certificate of Financial Responsibility (COFR) program requires a vessel or facility, operating in California marine waters, to demonstrate a level of financial backing up to \$1 billion, depending on the type and capacity of the vessel or facility. Financial responsibility can be demonstrated in a variety of ways including insurance, self insurance, surety bonds, membership in Protection and Indemnity Clubs, letter of credit, certificates of deposit, or combinations of methods.

The COFR program is unique among peer programs as to the extent of financial backing required as well as in the broad range of vessels that are required to maintain a COFR. Most of the companies operating facilities and vessels do not maintain a certificate of deposit, rather, the use of insurance is more prevalent. Insurance policy fees are based on the risk associated with the insured's activities and history. As risk increases, the cost to insure against loss also increases. Conversely, as risk decreases, the cost of securing insurance, or another method of financial responsibility, also decreases. This external pressure acts as a financial disincentive to risky behavior.

The COFR program is an example of innovative economics applied to spill prevention, while providing financing for a recovery effort if necessary. Taken together, the ability to finance response to a spill, and the financial incentives for lower risk, provide an environment that encourages responsible behavior while ensuring appropriate response in the event of a spill.

Economic Impacts of Southern California Beaches

An oil spill resulting in beach closures would have major ecological and economic consequences on the Southern California region. The value associated with lost wildlife and habitat and other ecological impacts will vary depending on such factors as spill location, beach activity, season, type of wildlife, and persistence of oil.

In addition to the ecological impacts, a spill at a Southern California beach will have significant economic impacts. An ongoing study by a team of economists has attempted to quantify these economic impacts. The Coastal and Ocean Resource Economics (CORE) Program conducts marine-related socioeconomic research, including their *Southern California Beach Valuation Project*. Included in the project's scope is estimating the market and nonmarket values of recreation uses of Southern California beaches, quantify beach visitation and to use the information to estimate the socioeconomic impacts on beach closures, water quality changes and investments in other beach attributes.

CORE estimates that the monetary value of economic contributions from these beaches was more than \$1 billion during the summer months of June and July 2000 (approximately \$16,393,443 daily). Beaches in Los Angeles County generated \$736 million in retail spending while Orange County beaches generated approximately \$221 million during the same period.¹⁰ Their research also indicates that the beaches in Los Angeles and Orange Counties support approximately 58,600 full and part-time jobs.¹¹

¹⁰ Summary Report on Expenditures Model. Page 7
<http://www.marineconomics.noaa.gov/SCBeach/laobeach1.html#reports>

¹¹ Summary Report on Expenditures Model. Page 10
<http://www.marineconomics.noaa.gov/SCBeach/laobeach1.html#reports>

OSPR's Natural Resource Damage Assessment Unit (NRDA) estimates the value of a lost user-day at \$15-\$30 per day, per person. This value is based on what a particular beachgoer would be willing to pay in order to go to the beach, rather than particular user's spending while at the beach. Using the CORE study estimates of daily beach visits, we can approximate the lost user day value resulting from a spill related beach closure. CORE estimated that during the 2000 summer, there were 325,351 and 160,129 beach visits per day in Los Angeles County and Orange County, respectively. If we hypothesize a 14 day beach closure, impacting 50 percent of the beach visitors, Los Angeles County beach visitors lost value would range from \$34.2 to \$68.3 million. In Orange County, such a spill could incur lost value of \$16.8 to \$33.6 million.

It is apparent from these studies and resulting estimates, that the cost of an oil spill on Southern California beaches would be significant. These costs include the value associated with loss of natural habitat and/or wildlife, the economic impacts of beach closures on local business and jobs, and the value of a lost user day to beach visitors. We note that there are similar studies being conducted to evaluate the economic value of beaches in other areas of California's coastline.

STAKEHOLDER IDENTIFIED ISSUES

Thematic Analysis

We conducted in excess of 35 interviews with internal and external stakeholders, which included state and federal agency staff, industry representatives, and others. These interviews were compiled and analyzed for common themes. The matrix below lists themes mentioned by four or more stakeholders.

Common Themes	Stakeholders				Total Mentions
	Environ-mental	Industry	State/Federal Agencies	Other	
Contingency Plans: Duplication, Inefficient, Staffing	1	3	9	1	14
DFG Operational Inefficiencies	1		13		14
The Emerging Threat of Inland Spills		1	6	1	8
SLC MFD Data is a Model for OSPR			6	1	7
Changing Roles: Response vs. Prevention and Related Training		1	5		6
Praise for OSPR Work	1	1	3	1	6
The Importance of Drills	1		5		6
Coast Guard Resource Reallocation and OSPR's role			6		6
OSPR Reaches Out to Stakeholders for Input		2	3	1	6
Staffing Issues Impact Mandated Duties	1		5		6
OSPR Leadership on Dispersants			3	2	5
The Importance of Harbor Safety Committees		2	3		5
Movement of Personnel from SLC to OSPR			4		4
OSPR Doesn't Involve Key Stakeholders Early Enough in the Process	1	2	1		4
Inland Spills are Currently Outside of OSPR's Mission	1		3		4
Oily Bilge Water and Disposal			4		4

Notes: The four stakeholder categories represent a broad spectrum of agencies. Each category may contain multiple agencies. Multiple stakeholders may represent a single agency. Color-coding bears no significance, other than to delineate themes by number of times a theme is mentioned. Red = themes recurring more than 7 times, Yellow = themes recurring 6 times, Green = themes recurring 4 or 5 times. Themes recurring fewer than 4 times were not categorized.

The following sections discuss the themes that shared the broadest consensus among stakeholders. Also discussed are the primary issues under each theme as well as associated recommendations. Following that discussion is a brief description of the other themes.

Contingency Plans

This topic was the single most mentioned theme through the course of our interviews and has the broadest consensus among those interviewed. Stakeholders were concerned with:

- Duplication of state and federal plans.
- Inefficiencies in the need for paperwork and/or operational inefficiencies in the Office of Spill Prevention and Response (OSPR) regarding contingency plans.
- Excess resources expended on contingency plan activities.

Our discussion with participants included perceptions regarding state contingency plans, including systems used in other states, such as Texas and Alaska. The Texas General Land Office uses an online database to allow plan filers to submit via the Internet. Alaska has developed a streamlined model that results in a four to five page plan.

Issues Raised by Stakeholders:

- Concerns that the current contingency plan model was simply a way of keeping OSPR headquarters staff fully employed.
- Questions regarding why California (and many other states) require contingency plans that are separate from contingency plans also required by the U.S. Coast Guard.
- One respondent, who derives income from the preparation of contingency plans, said that the contingency plans were redundant and required a superfluous amount of information. The participant noted that much of the plan is never referenced during the course of an actual spill.
- Some participants indicated that the current contingency planning process was useful, especially the “what-if” scenarios required in the Cplans. These scenarios closely resemble tabletop spill exercises.
- Several participants suggested that modeling and “what-if” scenarios be required in only the Area and Oil Spill Response Organization (OSRO) Contingency Plans, because the OSRO bears the burden of response and clean-up. They note that this would greatly reduce the volume of individual contingency plans.
- Many respondents suggested that California adopt the Texas online database format and/or the streamlined model used in Alaska.

Recommendations

- Tie “what-if” scenarios to the OSRO and Area Contingency Plans.
- Work with the Coast Guard to reduce duplication of paperwork in contingency plans.
- Implement an Alaska based streamlined contingency plan model.
- Implement Texas based model for online plan submittal.

We note that OSPR, in conjunction with the other members of the Pacific States-British Columbia Oil Spill Task Force, has agreed in principle to creating a single contingency plan format for all member states, an online plan submittal, and streamlining. To date, these agreements have not been implemented.

Department of Fish and Game (DFG) Operational Inefficiencies

DFG and OSPR operational inefficiencies was the second topic most mentioned by stakeholders. Issues under this general theme include:

- Lack of clear delineation of the reporting structure and authority of the OSPR Administrator in relation to DFG staff and operations
- DFG obstruction of OSPR contracts
- DFG and OSPR infighting
- Excessive DFG overhead allocations
- DFG bureaucratic hurdles
- OSPR’s lack of a firm operational structure is detrimental to powerful decision-making and management.

During our interviews, one third of the participants spoke about organizational and operational issues between OSPR and DFG. Common themes emerged regarding the need for a reasonable explanation of the overhead allocation DFG applies to contracts, mitigation settlements, special funds, and any other monetary balances associated with OSPR.

We interviewed DFG budget staff regarding these concerns. They noted that differing cost allocations are based on the type of fund (federal or other) and that the rent allocation formula used by DFG is outdated. DFG budget staff agreed that the organizational structure of OSPR leads to confusion in regard to reporting structure and authority. Additionally, they indicated that OSPR has no professional accounting staff (accountants or CPAs), which they deemed a contributory factor to the on-going communication problems between DFG and OSPR.

In addition to budgetary conflicts, the lack of defined reporting structures and effective management and communication training became apparent. Based on the responses both inside and outside these agencies, it is clear that DFG and OSPR have an unregimented and politicized operational structure, and that proactive and honest actions must be taken to improve the relationship between OSPR and DFG.

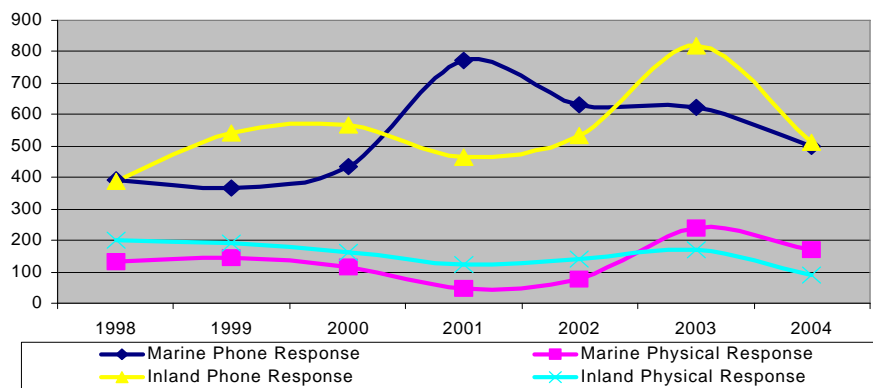
Recommendations

- A clearly delineated statement of autonomy, authority, and reporting structure must be created between the OSPR Administrator and DFG. This may necessitate escalation to the Resources Agency Secretary for a clear resolution to current issues hampering response and remediation capacity, effectiveness, and the public image of OSPR and DFG.
- DFG, OSPR, and State Lands Commission (SLC) accounting staff should meet on an established schedule and as needed to coordinate activities, encourage information sharing, foster working relationships, and reduce bureaucratic barriers to cooperation.
- DFG must provide a clear explanation to OSPR of how the overhead allocation is calculated and how it is applied to each fund or contract.
- DFG headquarters and OSPR should collaborate to develop a process for requesting discounted overhead on pass-through funding.
- A service level agreement should be put in place between OSPR and the DFG budget unit. If service level expectations aren't met, OSPR should explore the option of contracting out for administrative services.

Inland Spills

The third most mentioned topic among stakeholders was the perceived threat from the rising numbers of inland spills. This theme is interesting in that it contradicts OSPR data in some instances. For example, in the graph below, which was derived using OSPR warden activity reports, it is apparent that the number of inland physical responses have been higher than marine physical response from 1998 through 2002. That trend reverses itself in 2003 and part of 2004. The overall trend in the data indicates that the number of inland spills has remained fairly constant, based on the number of physical responses by OSPR wardens. One potential reason this issue is so close to the collective consciousness of respondents might be the recent and widely publicized Suisun Marsh spill. This spill garnered national attention with spill volume estimates ranging between 80,000 and 1,000,000 gallons of diesel fuel spilling into an environmentally sensitive region.

Number of Responses by Method and Location



Just as the American Trader spill garnered support for the Lempert-Keane Seastrand Oil Spill Prevention and Response Act, the Suisun Marsh spill may be the catalyst for inland spill legislation that clearly delineates OSPR's role in future inland spills. OSPR's inland role, as of the writing of this report, is established through an email directive from the DFG Director and an update to the DFG Department Operations Guide. There was no funding stream or agreement established to support these directives. There is currently no single agency with Incident Command authority, dedicated funding, adequate staffing, or clear jurisdiction over, the response and prevention activities needed to address inland spills.

Recommendations

- The Resources Agency should promulgate legislation clearly delineating OSPR's role in the prevention, response, and mitigation of inland spills.
- A clear funding stream, legal authority, use of Incident Command, and related aspects should be identified.

State Lands Commission Marine Facilities Division Data Management

OSPR's ability to use data effectively to craft policy, direct resources, and measure performance, is hampered by:

- A lack of data integrity.
- An abundance of unofficial databases that do not use a standardized data dictionary, are not subject to independent verification and/or oversight, do not reside on the OSPR intranet, and whose output has been used to report official OSPR data.
- A lack of adequate skills and training.
- The absence of a qualified database manager.

Despite a failed OSPR attempt at creating a consolidated database in the mid-1990s, data continues to be compiled and distributed in more than 30 unique and separate databases. Interview respondents indicated that data integrity is an ongoing issue at OSPR.

The SLC Marine Facilities Division (MFD) model for data tracking, management, and reporting was named as a model that OSPR should consider carefully. Close to 20 percent of respondents specifically spoke about the MFD model and the potential utility of a similar database at OSPR.

Currently, the SLC MFD database allows staff to:

- Schedule inspections based on risk factors calculated using historical data.
- Track facilities and vessels.
- Document terminal spills including primary and secondary causes.
- Track facility inspections, vessel, and facility data.
- Compile engineering and regulatory violations by facility or vessel.
- Generate monthly reports.

The systems currently in use at the SLC MFD provide a well-defined and useable data stream that allows the agency to utilize data to track performance and, in turn, competitively secure additional funding from the OSPAF. During the course of the interviews, it was suggested that the SLC MFD database be used for tracking OSPR spill statistics. However, this would require modifications to the SLC MFD system and strict data integrity at OSPR.

Respondents recommended that one system be used for tracking spill information in the State, asserting that it is duplicative to implement two systems with differing formats and platforms when the single goal of both agencies is to prevent spills.

Recommendations

- The SLC MFD currently utilizes a database that could be used, with some modification, to track oil spill data at OSPR. Rather than expend resources duplicating the SLC effort, OSPR should work with the SLC MFD to track spills falling under OSPR's jurisdiction.
- OSPR and the SLC MFD should work cooperatively to reach agreement on the management, maintenance, and sharing of the database. This should include sharing of information, costs, and expertise.
- OSPR should contract with a consulting firm to evaluate current data on hand and begin the potential transition of this data to the SLC MFD database.
- OSPR should hire a database manager with the necessary skills to query and manipulate data, conduct quantitative analyses, and generate meaningful reports based on those analyses.
- Wardens, biologists, and Oil Spill Prevention Specialists must be trained on data integrity and reporting to ensure collection of meaningful data.

Other Important Themes

- **Changing Roles: Response Versus Prevention and Related Training**

Stakeholders pointed out that prevention dollars have a higher utility, and lower cost, than response dollars. Additionally, stakeholders spoke about the problems of having dual missions of response and prevention and the conflicts between resource allocations. The perceived lack of training opportunities in each field was also discussed.

- **Commendations for OSPR work**

Approximately 20 percent of participants said that OSPR does good work and that the people at OSPR are committed to protecting California's environment. This sentiment was shared across stakeholder groups, with the highest concentration among the state and federal agencies group.

OSPR does a good job of involving external stakeholders in its activities. Additionally, some industry stakeholders felt the relationship was collaborative rather than adversarial.

- **The Importance of Drills**

A number of stakeholders spoke about the need for OSPR attendance at drills and exercises. Repeatedly, respondents spoke about the need for continuing drills and a greater presence of OSPR staff at those exercises.

- **Coast Guard Resource Reallocation and OSPR's Role**

In today's environment of heightened security and the passage of the Maritime Transportation and Security Act of 2002, there is a clear reallocation of Coast Guard resources toward homeland security. In light of these changes, OSPR will need to fill a greater role in spill response and prevention.

- **Staffing Issues Impact Mandated Duties**

Stakeholders felt that the current level of staffing prevents OSPR staff from completing mandated tasks. Additionally, some concern was expressed over the level of contracted staffing in relation to the mandated level of work. Understaffing in field offices is said to impede the ability of staff to conform to duty statements and the ability to respond in the event of a major spill.

- **Dispersant and OSPR Leadership**

Respondents indicated that OSPR's work on obtaining blanket pre-approvals for dispersant use was indispensable in completing the process. While the approvals apply only to federal water use, they still represent a breakthrough for spill response off the California coast. However, a lack of dedicated airlift capabilities remains a roadblock to implementing dispersant use.

- **The Importance of Harbor Safety Committees**

Stakeholders applauded the establishment of Harbor Safety Committees. The Committees act as conduits for information exchange between local area stakeholders regarding safe navigation in the state's harbors.

However, the committee structures may not provide appropriate representation of both external and internal stakeholders. Currently, no single OSPR staff member attends each of the various harbor's committee meetings. This raises concerns about the effective transfer of information between committees that may be facing similar issues.

Additionally, the SLC MFD has no current membership position on Harbor Safety Committees, although they often attend on an informal basis. The SLC MFD maintains a wealth of information on vessels and vessel specific risk data, has institutional knowledge of the terminals and ports these vessels visit, and an extensive background and history with the oil industry. As such, the SLC MFD should have formal participation on Harbor Safety Committees.

- **Movement of Personnel from SLC MFD to OSPR**

Respondents claimed that OSPR targets SLC MFD personnel for recruitment, with 17 SLC MFD staff recruited to OSPR in the recent past. Respondents noted that OSPR Oil Spill Prevention Specialists (OSPS) field personnel enjoy regular overtime opportunities that are not offered to SLC MFD Inspectors. In addition, OSPSs, who may be called to respond to spills, are allowed to use their state vehicles to commute. These benefits entice SLC personnel to make lateral transfers or even demotions to take OSPR positions. This practice arguably shifts recruitment and training costs from OSPR to the SLC.

- **OSPR Doesn't Involve Key Stakeholders Early Enough in the Process**

For the most part, OSPR successfully reaches out to stakeholders. Some stakeholders, however, expressed the desire to have a more participatory role in the formation of regulations prior to a public commentary period in the legislative process. While OSPR does involve industry and other stakeholders in the legislative process, stakeholders feel that it is not early enough in the process.

- **Inland Spills are Currently Outside of OSPR's Mission**

A number of interviews indicated concern over OSPR's current role and participation in the response and clean up of inland spills. While stakeholders believe that OSPR is doing a good job, concern was expressed over the expenditure of scarce resources as well as questioning the potential use of marine response related funds on inland spills. One industry stakeholder, however, expressed the opposite opinion, indicating that the oil industry wasn't concerned about OSPR using marine response funds to address inland spills.

- **Oily Water and Bilge**

Several stakeholders spoke about OSPR's role in addressing the illegal dumping of oily bilge water in state marine waters. Some cited the State of Washington's program as a model for enforcement, while others spoke about the utility of OSPR's petroleum lab in tracking illegal dumping. Additionally, OSPR's use of advanced satellite technology for tracking oil sheens was also discussed. This technology allows tracking of both large and small spills using satellite imagery services that are procured from a Canadian firm. This particular technology has incredible potential in allocating resources in the event of a major spill.

While the use of new technologies to address oil spills is mandated in the Act, one participant spoke about a low-tech solution the Texas General Land Office employed to address oily bilge water. Texas has had six collection sites constructed along the coast. These facilities are free to use and have dramatically reduced the number of bilge water related spills in Texas coastal waters. Since implementation, these facilities have recycled 418,000 gallons of used oil and cleaned 580,000 gallons of oily bilge water. These numbers represent a decidedly proactive prevention strategy.

Information Technology Issues

We also conducted focused interviews with several OSPR Information Technology Staff. Information technology is an absolute critical component of OSPR's programs. However, the IT environment is decentralized and there are issues relative to efficiency and risk that should be considered in order to protect OSPR's investment in information assets.

There are numerous databases on file servers and spreadsheet applications that reside in individual personal computers. There are over 30 databases that lack formalized policies, procedures and documentation. Further, there are a limited number of IT staff that have the knowledge and required documentation to support and maintain the applications, resulting in key person dependency.

These factors have combined to create problems with OSPR data integrity. Data is missing or incomplete in a number of databases, the same data element is inconsistent among databases, and there is a lack of consistency by users and owners in updating or archiving the databases.

Recommendations

- Form an IT steering committee, composed of executive management, to set priorities, policies, standards, and related processes. A written charter for this committee should be developed and disseminated throughout OSPR.
- Perform an organization-wide data assessment to identify all information assets (data files, spreadsheets, etc.) including those on personal computers.
- Implement standards and controls to protect information assets including the backup of information on personal computers, and the development of documentation so all business applications can be maintained and utilized in the absence of their primary developer.
- OSPR has recognized the need for a database administrator. We recommend they staff this function with an experienced professional to work in concert with the IT Steering Committee and the multiple owners of data to establish the necessary database policies, processes, data dictionaries, data integrity standards, etc.
- The concept of a data warehouse should be discussed. The current array of over 30 databases needs to be restructured into a data warehouse. This would require the formation of a data management committee and the assistance of a facilitator or consultant to implement the required infrastructure (policies, data definitions, data integrity standards, etc.).
- A data committee consisting of OSPR and SLC staff should be formed to explore joint issues concerning systems, data definitions, data sharing, etc. See discussion above of this issue under “SLC MFD Data Management.”

Funds used by the Office of Spill Prevention and Response

- **Fund 0001 – Governmental/General Fund**

The General Fund has existed since the beginning of the state as a political entity. It is the principal operating fund for the majority of governmental activities and consists of all money received in the Treasury that is not required by law to be credited to any other fund.

The Legislature created various special accounts within the General Fund that are reserved for particular activities. Chapter 942/77 provides for the treatment of these accounts as other governmental funds for accounting and budgeting purposes effective July 1, 1978. Accordingly, the State Controller set up separate fund numbers to accommodate the reporting of these accounts. These General Fund special accounts are described separately.

- **Fund 0200 – Fish and Game Preservation Fund**

This fund was created by Chapter 256/09 and continued in existence by section 13000 of the code. All moneys collected under the Fish and Game Code or any other law relating to the protection and preservation of birds, mammals, fish, reptiles or amphibians are credited to the fund. The fund is used to pay the expenses of the department in carrying out the provisions of the code. Certain revenues or receipts are restricted to use for specific purposes. Chapter 855/78 specifically provided that the cost of hunting and sport fishing programs are to be financed out of hunting and sport fishing revenues. The costs of commercial fishing programs are to be paid solely out of revenues from commercial fishing taxes, license fees, and receipts from other sources for such purposes. This chapter also provided that the Department of Finance shall include in the Governor's Budget sufficient moneys from the General Fund to pay for the cost of the Department of Fish and Game's non-game programs necessary for the protection and enhancement of California's non-game fish and wildlife and their habitat.

- **Fund 0207 – Fish and Wildlife Pollution Account**

Chapter 864, Statutes of 1985 created the Fish and Wildlife Pollution Cleanup and Abatement Account within the Fish and Game Preservation Fund as a depository for funds recovered for specified cleanup, removal, or abatement actions or for funding the cleanup expenses under specified conditions. To reimburse or pay the cost of specified cleanup, removal, or abatement actions under specified conditions.

- **Fund 0212 – Marine Invasive Species Control Fund**

To carry out the ballast water management program as specified.

- **Fund 0320 – Oil Spill Prevention and Administration Fund**

Chapter 1248/90 created the Oil Spill Prevention and Administration Fund. This fund is a depository for annual fees imposed upon marine terminal operators on oil at the time the oil is received at a marine terminal, as well as on operators pipelines that transport oil into the state across, under, or through marine waters. The State Board of Equalization collects the fees and is responsible for adopting regulations for implementing the fee collection program. The Fee is used for the following purposes:

- To carry out studies on improved oil spill prevention and response.
- To finance environmental and economic studies relating to the effects of oil spills
- To reimburse member agencies of the Interagency Oil Spill Committee for certain costs
- To implement, install, and maintain emergency programs, equipment, and facilities to respond to oil spills.

- **Fund 0321 – Oil Spill Response Trust Fund**

Chapter 1248/90 created the Oil Spill Response Trust Fund. This fund is a depository for monies received, as specified below, to pay for response, abatement, containment, and rehabilitation from an oil spill in marine waters. Money may be spent from the fund only under the conditions specified in Government Code section 8670.49 and for the purposes specified in Government Code section 8670.50 and 8670.51.

- **Fund 0322 – Environmental Enhancement Fund**

Chapter 1248/90 created the Environmental Enhancement Fund. This fund is a depository for monies received as penalties associated with oil spills in marine waters. Monies are to be used only for environmental enhancement projects approved by the Environmental Enhancement Committee that are within or immediately adjacent to marine waters.

- **Fund 0890 – Federal Trust Fund**

Chapter 1284, Statutes of 1978 created this fund for the deposit of all moneys received by the state from the federal government where the expenditure is administered through or under the direction of any state agency. The purpose of this fund is to provide better accountability of the receipts and expenditures of federal funds that are received by the state. Expenditures are made for the purpose for which the moneys were received and transfer to other federal trust funds created for the deposit of certain types of federal money.

APPENDIX B

OSPR Building and Equipment for OSPAF						
Fiscal Year		Beg Balance	Additions	Deductions	End Balance	Total
1998-99	Equipment	3,953,382	1,372,726	331,835	4,994,273	8,649,757
	Buildings	3,655,484	-	-	3,655,484	
1999-00	Equipment	4,994,273	544,913	143,002	5,396,184	9,051,668
	Buildings	3,655,484	-	-	3,655,484	
2000-01	Equipment	5,396,184	(38,503)	1,890	5,355,791	6,085,275
	Buildings	3,655,484	(2,926,000)	-	729,484	
2001-02	Equipment	5,355,791	572,069	275,934	5,651,926	9,307,410
	Buildings	729,484	2,926,000	-	3,655,484	
2002-03	Equipment	5,651,926	430,203	98,278	5,983,850	9,639,334
	Buildings	3,655,484	-	-	3,655,484	
2003-04	Equipment	5,983,850	363,557	-	6,347,407	10,002,891
	Buildings	3,655,484	-	-	3,655,484	

A_{GENCY'S} R_{ESPONSE}



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>



December 14, 2004

Mr. Samuel E. Hull, Chief
Office of State Audits and Evaluations
Department of Finance
915 L Street
Sacramento, CA 95814-3706

Dear Mr. Hull:

We appreciate the opportunity to review the draft report of the review of the Office of Spill Prevention and Response (OSPR), Department of Fish and Game (DFG), Fiscal and Program Activities (Report #043600117). Attached are our responses to the recommendations in the Executive Summary and other sections of the report. Also we have attached the responses from the State Lands Commission.

DFG recognizes the benefits of clear communication and, with the cooperation of all interested parties, we have committed to working closely together in addressing these issues and ensuring that our actions are cohesive and in the best interest of DFG. During activities relating to oil spills, DFG also recognizes the need for OSPR's autonomy to carry out their mandated responsibilities.

Thank you again for the opportunity to review this report and provide our comments.

Sincerely,

*Original Signed By:
Renee Renwick for*

L. RYAN BRODDRICK
Director

Attachments

cc: Department of Fish and Game
Carlton Moore, OSPR
Renee Renwick, DD, Administration
Robert Boriskin, ADD

State Lands Commission
Paul D. Thayer

Department of Finance
Mary Kelly, OSAE
Dennis Mehl, OSAE

Conserving California's Wildlife Since 1870

**RESPONSE TO THE DRAFT REPORT
REVIEW OF THE OFFICE OF SPILL PREVENTION AND RESPONSE
DEPARTMENT OF FISH AND GAME**

RESPONSE TO RECOMMENDATIONS IN EXECUTIVE SUMMARY

Expenditures

Issue

The Department of Fish and Game (DFG) has not corrected inequities with its Distributed Administration funding that Department of Finance (DOF) reported in a 1995 Office of Spill Prevention and Response (OSPR) Program Review. At that time, DOF found that OSPR paid a higher percentage of its revenues for Distributed Administration costs than any other DFG fund, and that DFG Regional Offices charge more administrative positions to the Distributed Administration cost pool than OSPR.

During our review DFG did not provide documentation or methodology for the direct cost base it uses for distributing indirect costs. Such a methodology is required by the State Administrative Manual (SAM).

Recommendation

The DFG Budget Office should review the distributed administration methodology to standardize charges to the indirect cost pool and the distribution of those costs. DFG should also document the direct cost base used for distributing indirect costs, as required by SAM. The DFG Internal Auditor should review the resulting methodology and ensure that it is properly and appropriately computed and documented.

Response

The Distributed Administration methodology is reviewed on an ongoing basis and corrections are made when warranted. For the fiscal years 2001/02 through 2003/04, our records indicate that OSPR has not paid a higher percentage than all other funds. In regards to the cost allocation methodology, we provided a Departmental Bulletin, but did not provide the methodology. The methodology for 2003/04 is attached (Attachment 1) and is consistent with SAM. We will ensure that the Budget Branch and the Audit Branch are included in the review of this document.

Issue

The OSPR has sought to have DFG act as a funding pass through agent for habitat remediation projects. However, DFG assesses the current distributed administration fee on all contracts. DFG has refused to reduce the amount of indirect costs charged against the contracts to a level appropriate for the actual amount of work involved. We estimate that DFG would have earned over \$3.3 million if it had acted as the pass-through agent for these funds. While DFG Accounting has the ability to create special overhead exemptions, a breakdown in communication and cooperation between DFG and OSPR has prevented this from occurring. Unless this impasse is corrected, DFG will be unable to capitalize on this potential revenue source.

Recommendation

The DFG and OSPR should establish guidelines to use when negotiating trusteeship contracts. These guidelines should enable OSPR to evaluate the actual amount of administrative labor that will be required by the contract and allow DFG to fully recover the costs of providing oversight without unduly burdening the remediation projects.

Response

Development of an Indirect Cost Rate Proposal (ICRP) for departments using Federal funds and similar reviews of indirect costs are the processes departments use to calculate these costs. Indirect costs are those costs that can not easily be assigned to direct program costs. These will vary from department to department but the common characteristic is the inability to assign them to specific programs or projects. DFG is not able to assess all costs to direct program or activities. The best tool we have for spreading these costs equitably is the ICRP. This ICRP is prepared and reviewed each year.

Earlier this year, DFG had contacted DOF Fiscal Systems and Consulting Unit and DGS Legal Division for clarification of Government Code Section 11010 and SAM 8752 et seq. as they apply to the State's policy of full cost recovery when expending funds from Federal and reimbursement contracts. It was our intent, at that point, to seek guidance to initiate two separate ICRP rates, one for normal operations and one as a 'pass-thru' rate when providing funds directly to entities for various projects such as land purchases, and habitat remediation projects. The response we received from DOF was that unless a contract or agreement included language specifying limits, exemptions or exclusions, the full cost recovery policy applies. As to our inquiry regarding the two separate rates, the response was that we should prepare one ICRP using State operation dollars.

The settlement agreements which provide funds for habitat remediation projects are repayment of all costs previously expended for damage assessment, wildlife rehabilitation, etc., which at the time were expended, included all administrative costs. The settlement agreements may also include funding for future costs to mitigate

The settlement agreements which provide funds for habitat remediation projects are repayment of all costs previously expended for damage assessment, wildlife rehabilitation, etc., which at the time were expended, included all administrative costs. The settlement agreements may also include funding for future costs to mitigate damages which had occurred. Funds administered by trustees in accordance with settlement agreements are primarily dedicated to habitat restoration, mitigation, or in-kind acquisitions. When these funds are held outside of the State Treasury, they result in no cost to DFG.

DFG implements the intent of the trustee agreements by using either existing resources or outside entities/contractors. These activities generate an administrative cost to DFG which, according to state policy, must be recovered. These costs are identified as acceptable expenditures of the funds from the settlement agreements. If these costs are not charged to these contracts, they get spread to all the other funds at DFG. As noted in the above response, the DFG rate for some funds is higher than our average costs because of legislation that restricts the amount of Distributed Administration that can be charged to specific funds. Revising settlement agreements to limit Distributed Administration will simply pass these costs on to other funds and programs.

For funds held outside the DFG, any activities performed by DFG are compensated at a rate that includes the administrative costs as required in full cost recovery rules. If those funds are spent on contracts with other agencies, the administrative costs to oversee those contracts must be collected, and the contracting agency will also charge for their overhead. If we are able to find an outside entity whose overhead costs are lower than the State, using that entity allows the funds to go further in the remediation of the habitat.

Revenues, Fees and Fines Collected

Issue

If Oil Spill Prevention Administration Fund (OSPAF) revenues continue to exceed expenditures, the fund could have a significant excess balance. The excess fund balance would provide opportunities for OSPR to strengthen its prevention, readiness, and response activities.

Recommendation

OSPR, State Lands Commission (SLC), the oil industry, and other stakeholders should work together to prioritize program activities funded by the OSPAFA and should develop a joint strategy for the use of the projected OSPAFA surplus.

Response

Evaluate and assess actual surplus to explore options.

Board of Equalization (BOE) has been denied additional funding for staff to expand audit coverage to small fee payers.

Recommendation

OSPR should request approval for a limited term contract of one year to perform test audits on selected small fee payers. These test audits will allow the BOE and OSPR to assess the cost benefit of continuing and/or expanding audit activities.

Response

Engage BOE to determine value.

Issue

To delay payment of the fee, some shipping companies delay requesting Certificate of Financial Responsibility (COFR) documents until they are certain that their vessels will enter California waters. Due to this, many COFR applications now require expedited processing, requiring additional staff time and administrative costs.

Recommendation

Assess an additional fee on COFR applications requiring expedited processing.

Response

Evaluate an automated information processing system and need for regulatory reform.

Issue

Borrowing from funds is an inappropriate management practice. It results in the fund being used for unspecified and possibly inappropriate purposes. Further, it results in OSPAF losing interest that would otherwise be accrued.

Recommendation

DFG should refrain from using the OSPAF as a temporary funding mechanism for other funds and programs.

Response

DFG does not use OSPAF as a temporary funding mechanism. Our records show the State Controller's Office (SCO) initiated the borrowing of funds and not DFG. This is referenced in the SCO Tab Run Fund Reconciliation Report. The authority providing for this transfer and the return of these funds is Government Code 16310. No interest is returned on funds borrowed by the SCO.

Equipment

Issue

Observations regarding inadequate inventory of fixed assets have been included in several recent audits of DFG, including: 1999 DFG Internal Audit; 2001 DFG Internal Audit; Bureau of State Audits Internal Control and Compliance Report; and the United States Department of Fish and Wildlife Office of the Inspector General (August 2004). In their response to such findings, DFG asserts that corrective actions are being considered and implemented.

Recommendation

DFG should compile and reconcile their fixed asset inventory. Upon completion of the inventory, DFG's internal auditor should audit and verify the documentation and ensure that a process of ongoing asset management is developed and implemented.

Response

Due to staff reductions and the hiring freeze the past several years, sufficient staffing has not been available to maintain our fixed asset records on a current basis. We have prepared a plan and implemented it to update our fixed asset database and reconcile our property inventory records with the Department of General Services. We expect to complete this by June 30, 2005. The DFG's Audit Branch will be requested to review the documentation to ensure that this is completed.

Spills Responded to and Other Relevant Information

Issue

The lack of adequate data collection and documentation prevents OSPR from analyzing causal trends in the State and allocating resources to address those issues.

Recommendation

OSPR should collaborate with SLC Marine Facilities Division (MFD) to incorporate MFD spill database into OSPR operations.

Response

OSPR has recently redirected two PYs to this issue (which is also an issue in OSPR's Strategic Plan). A comprehensive data collection process and system is being developed. OSPR will work with SLC to adopt a best practices inventory for its own database needs.

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Contingency Plans

Issue

The majority of current workload associated with the plans involves filing revisions to existing plans. This workload is performed by Oil Spill Prevention Specialists.

Recommendation

Assign general analysts to perform contingency plan related tasks to allow the specialists to perform critical field functions.

Response

This issue will become part of MSB's Annual Business Plan.

Issue

OSPR's current method of receiving contingency plans is labor intensive and generates a significant amount of repetitive documentation.

Recommendation

Research streamlining techniques; such as implementing an online plan submittal system.

Response

MSB is currently evaluating the Texas software and automation system to address this issue.

Information Technology

Issue

There is missing or incomplete data in a number of OSPR databases, inconsistent interpretation of data elements among databases, and no regularity of updating and archiving the databases.

Recommendation

- Perform an organization-wide data assessment to identify all information assets (data files, spreadsheets, etc.) including those on personal computers.
- Implementation of standards and controls to protect information assets including archiving information stored in personal computers and the development of documentation so all business applications can be maintained and utilized in the absence of their primary developer.
- Appointment of a database administrator to establish the necessary database policies, processes, data dictionaries, data integrity standards, and other related issues. The administrator position should be staffed with an experienced professional to work in concert with the IT steering Committee and the multiple owners of data.
- Consideration of efforts to restructure the excess of 30 databases into a single data warehouse. This would require the formation of a data management committee and the assistance of a facilitator or consultant to implement the required infrastructure (policies, data definitions, data integrity standards, etc.).
- Formation of a data committee consisting of OSPR and SLC staff to explore joint issues concerning systems, data definitions, data sharing, and other related issues.

Response

OSPR has recently redirected two personnel years to these issues (which is an issue in OSPR's Strategic Plan). Also, OSPR has implemented the recommendation to form an IT steering committee. This was done in November of 2004. A comprehensive data collection process and system is being developed.

RESPONSE TO OTHER SECTIONS

From page IV - The percentage of DFG distributed administration charged to OSPR increased 16 percent from 2000/01 and 2003/04.

Response

The paragraph on page VI is misleading. It implies that the net change is 16%. We suggest that the paragraph be amended to indicate that the percentage for 2000/01 is 18% and the percentage for 2003/04 is 21% for a net change of 3%.

From page 13 -DFG Regional Offices charge more administrative positions to the Distributed Administration cost pool than OSPR.

Though we agree with this statement, we believe it is misleading in the context it is presented. Since Regional Office positions' activities may include work in several

programs and in different fund sources, it is difficult to classify a position to a direct program and fund source. As a result, several positions in Regional Offices are charged as Distributed Administration. However, OSPR functions are narrower in scope, contained to the OSPR Program, and can be easily classified as a direct cost to the program and fund source (Program 50, Fund 320). Therefore, it's appropriate for Regional Offices to charge more positions to Distributed Administration than OSPR.

Drills and Exercises

From Page 45 -The chart below shows that OSPR staff attended only 12 of 401 industry announced drills in 2003, and initiated 18 unannounced drills. In all, OSPR staff were present at 30 of 419 drills in 2003.

(See chart from original document.)

OSPR attendance at only 3 percent of the drills announced by industry stakeholders negatively impacts the level of training and preparedness for oil spills.

Response

The statistics given to the auditors reflected only those drills attended by the Readiness Unit. The drills attended were deliberately selected because they involved the Oil Spill Response Organizations that are used by all sectors of regulated industry, and shortfalls identified in these specific drills would have implications industry-wide. Additionally, the number of drills attended by other OSPR staff does not appear to be included, and if included the total number would be greater. Large numbers of vessel drills are held out of the State and may get California credit through attendance by other governmental agencies in cooperation with OSPR's drill program.

OSPR agrees that drill attendance has significant readiness value and there is a need to increase OSPR attendance at local (in-house) drills conducted by smaller industry components. OSPR will look at ways to make more resources available.

RESPONSE TO STAKEHOLDERS IDENTIFIED ISSUES

From page 52 - DFG Operational Inefficiencies

Response

In regards to the DFG Operational Inefficiencies, it is unclear how several of the recommendations were determined other than relying solely on interviews. For day-to-day operations, exclusive of spill response, OSPR operates under the direction of DFG and would not necessitate an escalation to the Resource Agency for resolution of issues. The recommendation to meet on an established schedule will be considered, but would not necessarily result in better efficiency; in fact, it may result in unnecessary meetings.

Being that both OSPR and the Budget Branch work under DFG, a service level agreement would not be applicable. Should there be expectations not met, DFG management will determine the best allocation and use of staff resources before any consideration for contracting out is made.

Attachment 1

DEPARTMENT OF FISH AND GAME FISCAL YEAR 03/04 CALSTARS COST ALLOCATION PLAN

Purpose/Scope:

The purpose of this plan is to document the Department of Fish and Game's (DFG) cost allocation plan. The DFG allocates all of the Administrative support costs and some direct costs that it cannot, in a practical sense, charge directly to the programs. These costs are allocated to funds and programs, but not to organizational units. The DFG's administrative costs are identified in the Governor's Budget under Program 70 Administration.

Direct program costs that are not charged directly to program/element/ components are initially charged to Program 96, "Undistributed Program Costs". All support-related program 96 costs are distributed in cost allocation step 1 to other programs. Therefore, no support expenditures are charged to Program 96.

The DFG uses the clearing account method for multi-program and multi-funded expenditures. In this method, charges are initially charges to the clearing account established in the General Fund. At month-end, an automated CALSTARS procedure transfers these charges to their ultimate funding source. Using a standard CALSTARS report, accounting staff prepares the necessary Plans of Financial Adjustment to Account (PCA) table specifies the program/element/component, the clearing account and the ultimate funding sources.

The DFG direct charges all single program/single-funded expenditures. The CALSTARS cost allocation system provides automated allocation of indirect costs to programs and allocation of program costs among several funding sources.

For easy identification, administrative costs are assigned PCA codes between N0000 and N0999. Direct program costs that will be distributed are assigned PCA codes between N1000 and N1999.

Cost Allocation – 1st Step

Some direct costs are chargeable to several programs, funds, and/or projects. Normally program staff would need to code these costs to several PCAs. To reduce this coding workload, allocated PCAs were established. These costs initially charge to Program 96. In the first cost allocation step, these costs are spread to direct PCAs on a fixed percentage basis.

The percentages are determined by budget staff in conjunction with program staff. The basis for these ratios are dependent upon the type of charge. The distribution of PCA N1400 is determined by how much Fish and Game Preservation Fund is budgeted to each program. PCA N1700 (Legal Services), N1850 (Air Services), and N1900 (Geographic Information Services) is distributed based on the estimated level of services provided to the programs.

CALSTARS posts all cost allocation entries to the same object codes as the original entries but charges them to index 9999. Attachment 1 includes the allocated PCAs, the PCAs that receive those costs, and the percentages used. The receiving PCAs includes detail regarding it's program/element and ultimate funding source(s).

Cost Allocation – 2nd Step

Administrative costs are charged to PCA N0300. These costs are allocated to the direct programs using PCA N0988 in index 9999. These costs are distributed on the ratio of all expenditures charged to direct program PCAs (including those distributed in Step 1).

Cost allocation spreads administrative costs on a prorated basis to all costs charged within the allocation range. The cost allocation ranges are indexes AAAA through 9999, PCAs AAAAA through MZZZZ, and object codes 000.00 through 599.00. CALSTARS takes the costs in the allocation range and summarizes them based on the PCAs charged. It then makes ratios based on the costs per PCA as compared to the total costs in the cost allocation range. The amount charged to PCA N0300 is distributed based on these ratios. This distribution occurs in index 9999 using object code 427. The offsetting entry to this distribution is made in PCA code N0988, index 9999, and object code 912. Attachment 2 is a list of indexes that include administrative costs.

Cost Allocation Adjustment

Federal contracts and some reimbursement contracts charge indirect costs and administrative overhead based on fixed rates. Some other funding sources have specific limitations on the application of overhead. (For example, Fish and Game Code Section 7861.1 sets a maximum administrative overhead rate of 3.3 percent for the Commercial Fishing Stamp Account.) The CALSTARS automated overhead distribution does not take into account how much overhead is collectable on fixed percentage contracts, nor does it spread year-to-date overhead on a year-to-date basis. Instead the system allocates current month overhead evenly over the current month charges. Since the DFG has fixed overhead accounts and seasonal fluctuations in program activity, the CALSTARS distribution does not spread overhead equitably among the funding sources.

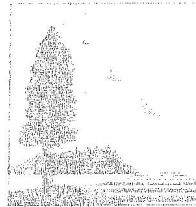
The DFG developed the following method to redistribute the overhead equitably. First, the total year-to-date overhead amount is calculated. The overhead charged based on fixed rates is subtracted from this total and attributed to the appropriate PCAs. The remaining overhead is spread based on the direct charges of the remaining funding

sources. The recalculated overhead is then compared with the amounts originally charged by CALSTARS. The differences are captured and used to develop appropriate adjusting entries. These adjusting entries are made in index 9999, the same as the CALSTARS overhead adjustment. The object code of 427.07 is used to segregate the adjustment from the original cost allocation entries.

This adjustment is run at fiscal year end. If overhead seems to be getting materially unreasonably distributed, the adjustment may also be performed during the fiscal year.

**CALIFORNIA STATE
LANDS COMMISSION**

CRUZ M. BUSTAMANTE, *Lieutenant Governor*
STEVE WESTLY, *Controller*
TOM CAMPBELL, *Director of Finance*



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December 13, 2004

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**DFG
DIRECTOR'S OFFICE**

L. Ryan Broddrick, Director
Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

Subject: Response to Special Review Report of Oil Spill Programs

Dear Director Broddrick:

Thank you for the opportunity to review and comment on the Department of Finance (DOF) draft "Report on the Department of Fish and Game Office of Spill Prevention and Response Review of Fiscal and Program Activities." We found the review to have accurately portrayed the Commission's Oil Spill Prevention Programs. We would like to provide the following comments where State Lands Commission (SLC) involvement was specifically mentioned in the report:

Oil Spill Prevention and Administration Fund (OSPAP) Surplus Funding Alternatives

DOF Recommendation

Office of Spill Prevention and Response (OSPR), SLC, the oil industry, and other stakeholders should work together to decide upon the most effective plan for program activities funded by the OSPAP and should form a joint strategy for the use of the projected OSPAP funds.

Response

The Commission looks forward to working with the OSPR and other interested parties to promote a strategy that will meet the objectives of the programs and the needs of the environment and people of California. The Oil Spill Technical Advisory Committee provided for in Government Code § 8670.54 should be included as an interested party..

Data Management

DOF Recommendations

OSPR should immediately begin working with the State Lands Commission, Marine Facilities Division (MFD) to incorporate the MFD's database into OSPR operations. The MFD has a fully functioning database, which would allow California to accurately track spills from a statewide perspective and allow analysis of spill trends for causal factors. The SLC database currently uses a system, which allows reports to be entered detailing actions leading up to a spill. Those actions are then classified by the system into causal factors, which could easily be reported to the Task Force for meaningful analysis. Additionally, OSPR would have an opportunity to analyze causal trends in the state and precisely allocate resources to address those issues.

The SLC MFD currently utilizes a database that could be used, with little modification, to track oil spill data for OSPR. Rather than expend resources duplicating the SLC effort, OSPR should work with the SLC MFD to track spills falling under OSPR's jurisdiction.

OSPR and the SLC MFD should work cooperatively to reach agreement on the management, maintenance, and sharing of the database. This should include sharing of information, costs, and expertise.

OSPR should contract with a consulting firm to evaluate current data on hand and begin the potential transition of this data to the SLC MFD database.

Response

The assumption that the MFD database can be adapted to the needs of OSPR with little modification overstates the ease to which the identified problems can be corrected. The report identifies issues of faulty data collection, data integrity and lack of any standards or controls are management issues that cannot simply be resolved by the application of technology. A very large factor in the success of the current database was the structure and integrity of the manual processes and systems that it replaced and enhanced. The program has been a data-driven management model since its inception in 1991. The database project had significant executive sponsorship and was clearly articulated as the central priority during development and implementation.

The CSLC database is built specifically to meet our needs and our operational and management practices. The data contained is mostly of little value to OSPR. The appropriateness of sharing the database should be the subject of a feasibility study. The business needs of both organizations need to be identified and satisfied with any solution. The Commission can assist OSPR with the selection of a contract project management consultant to perform the necessary analysis and feasibility. Based on the findings of the study, a determination can be made as to the most cost-effective means of improving mutual data needs.

Fiscal Office Relationships

DOF Recommendation

Department of Fish and Game (DFG), OSPR, and SLC accounting staff should meet on an established schedule and as needed to coordinate activities, encourage information sharing, foster working relationships, and reduce the bureaucratic barriers that have resulted from past interpersonal conflicts.

Response

Current administrative staff, particularly at the management level, has developed a good working relationship that extends well beyond OSPAF and OSPR issues to other funds and programs of mutual interest. SLC would be delighted to meet regularly with the DFG fiscal office regarding OSPR and all other issues of mutual interest to ensure effective delivery of programs.

For any questions or clarification regarding these responses, please contact David W. Brown, Chief Administrative and Information Services at 574-1870 or brownd@slc.ca.gov

We look forward to continuing a positive cooperative working relationship with the Department regarding oil spill programs and all other areas of mutual interest.

Original Signed By:

PAUL D. THAYER
Executive Officer

cc: Gary Gregory, Chief,
Paul Mount, Chief, MRMD
Dave Brown, Chief, AISD

EVALUATION OF RESPONSE

We have reviewed and evaluated the responses from the Department of Fish and Game (DFG) and the State Lands Commission. The responses provide general information and clarification on some items. Where necessitated by the responses, we have provided specific comments.

In their response, DFG addressed the issue of distributed administration and provided the methodology for 2003-04. During the course of our review, we repeatedly asked DFG for documentation of their cost allocation methodology. However, as indicated in their response, we were provided only with the State Administration Manual guidelines. While we have not evaluated the 2003-04 cost allocation plan for this review, we recommend that Office of Spill Prevention and Response staff perform an analysis of the plan.

DFG provided clarification regarding the issue of borrowing funds from the Oil Spill Prevention Administration Fund. Based on the additional information provided, we deleted this issue from the report.